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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO.

15-2880 C

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

METALS RECYCLING, L.L.C., d/b/a Schnitzer Northeast, and PROLERIZED NEW ENGLAND COMPANY LLC, d/b/a Schnitzer Northeast,

Defendants.

SUFFOLK SUPERIOR COURT
CIVIL ACTION OFFICE
2015 SEP 24 AM 9:41
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

CONSENT JUDGMENT

Notice
sent
9-24-15
FA
EDD
SFS
MS
MRW

JUDGMENT ENTERED ON DOCKET 9-24 20 15
PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P.58(a)
AND NOTICE SEND TO PARTIES PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 77(d) AS FOLLOWS

INTRODUCTION

WHEREAS, Plaintiff, the Commonwealth of Massachusetts (the "Commonwealth"), acting by and through the Attorney General and the Massachusetts Department of Environmental Protection (the "Department") has filed a Complaint in this action alleging that the Defendants, Metals Recycling, L.L.C., d/b/a Schnitzer Northeast ("Metals Recycling"), and Prolerized New England Company, LLC, d/b/a Schnitzer Northeast ("PNE"), (collectively referred to herein as the "Defendants") have violated that portion of the Commonwealth's Public Health Law that addresses the protection of the atmosphere from pollution and contamination, G.L. c. 111, §§ 142A-142O (the "Air Act"), and its implementing regulations found at 310 C.M.R. 7.00 *et seq.* and 310 C.M.R. 7.00 Appendix C (the "Air Regulations"); the Hazardous Waste Management Act, G.L. c. 21C (the "HWMA"), and its implementing regulations found at 310 C.M.R. 30.000 *et seq.* (the "HWMA Regulations"); the Massachusetts Solid Waste Management Act, G.L. c. 111, § 150A (the "SWMA"), and its implementing regulations found at 310 C.M.R. 19.000 *et seq.*; and that PNE has also violated the Massachusetts Mercury Management Act (St. 2006, c. 190, amending G.L. c. 21H; the "MMA"), and the implementing regulations found at 310 C.M.R. 70.00 *et seq.* and 310 C.M.R. 74.00 *et seq.* (the "MMA Regulations"); and

WHEREAS, the Complaint alleges that the violations occurred at metal recycling facilities owned or operated by the Defendants in Attleboro, Everett, and Worcester, Massachusetts, where the Defendants recycle scrap metals from salvage and demolition projects, as well as automobiles, appliances, and other forms of scrap metals; and

WHEREAS, the Complaint alleges that the Defendants engaged in the improper handling and storage of hazardous waste; engaged in the improper handling, management, and disposal of

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mercury containing components; caused fugitive air emissions; failed to register as a major source of air pollution; failed to properly manage shredder residue ("SR"); improperly handled asbestos; and failed to control particulate emissions and volatile organic compounds; allegations that the Defendants expressly deny; and

WHEREAS, the Commonwealth's Complaint seeks injunctive relief and the assessment of civil penalties; and

WHEREAS, the Commonwealth and the Defendants (collectively, the "Parties") have reached an agreement to resolve the Commonwealth's claims against the Defendants, including an agreement on the amount of a civil penalty; and

WHEREAS, the Defendants enter into this Consent Judgment without admitting or denying the facts or allegations set forth herein or in the Complaint, except as provided in Section II (Jurisdiction and Venue), and the Defendants agree, however, not to contest such facts and allegations for purposes of the entry or enforcement of this Consent Judgment; and

WHEREAS, the Parties agree that the settlement of this matter has been negotiated in good faith and at arm's length, that implementation of this Consent Judgment will avoid prolonged and complicated litigation between the Parties, and that this Consent Judgment is consistent with the goals of the Massachusetts laws and regulations set forth above, is in the public interest, and is an appropriate means to resolve this case; and

NOW, THEREFORE, based on the Joint Motion of the Parties for Entry of this Consent Judgment, and before taking any testimony and without the adjudication of any issue of fact or law except as provided in Section II (Jurisdiction and Venue), it is **ADJUDGED, ORDERED, AND DECREED**, as follows:

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I. DEFINITIONS

1. Unless otherwise expressly provided in this Consent Judgment, terms used in this Judgment that are defined in the Air Act, the Air Regulations, the HWMA, the HWMA Regulations, the SWMA, the SWMA Regulations, the MMA, and the MMA Regulations shall have the meanings assigned to them in those statutes and regulations.

2. Whenever the following terms are used in this Consent Judgment, the definition specified hereafter shall apply:

(a) "Attorney General" shall mean the Massachusetts Office of the Attorney General.

(b) "Commonwealth" shall mean the Commonwealth of Massachusetts.

(c) "Day" shall mean a calendar day.

(d) "Business Day" shall mean a day other than a Saturday, Sunday, or a State or Federal holiday.

(e) "Department" shall mean the Massachusetts Department of Environmental Protection.

(f) "Entry Date" shall mean the date that this Consent Judgment is entered on the Suffolk Superior Court's Docket.

(g) "Consent Judgment" shall mean this Consent Judgment and any exhibits to it.

(h) "Everett Facility" shall mean the metal recycling facility operated by PNE at 69 Rover Street, Everett, Massachusetts, at which is located the existing Riverside Model M-122, 9000 horsepower electrically driven mega shredder (the "mega shredder").

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(i) "Attleboro Facility" shall mean the metal recycling facility operated by PNE at 136 Bacon Street, Attleboro, Massachusetts.

(j) "Worcester Facility" shall mean the metal recycling facility operated by Metals Recycling at 20 NippNapp Trail, Worcester, Massachusetts.

(k) "RI Site" shall mean the shredding and metal recycling facility operated by Metals Recycling at 89 Celia Street, Johnston, Rhode Island.

(l) "Metals Recycling" shall mean the Defendant Metals Recycling, L.L.C., d/b/a Schnitzer Northeast, a Rhode Island Limited Liability Company and a wholly-owned subsidiary of Schnitzer Steel Industries, Inc., with its Rhode Island principal place of business located at 89 Celia Street, Johnston, Rhode Island 02919, and its principal office located at 299 SW Clay, Suite 350, Portland, Oregon 97201.

(m) "PM" shall mean all particulate matter, including without limitation PM_{10} and $PM_{2.5}$.

(n) "PNE" shall mean Defendant Prolerized New England Company LLC, d/b/a Schnitzer Northeast, a Delaware limited liability company and a wholly-owned subsidiary of Schnitzer Steel Industries, Inc., with its Massachusetts principal place of business located at 69 Rover Street, Everett, Massachusetts 02149, and its principal office located at 299 SW Clay, Suite 350, Portland, Oregon 97201.

(o) "Parties" shall mean the Plaintiff Commonwealth and Defendants and any successors in interest to Defendants.

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(p) "Section" shall mean a portion of this Consent Judgment identified by a Roman numeral.

II. JURISDICTION AND VENUE

3. The Superior Court has jurisdiction over the subject matter of this action and over the Parties to it pursuant to G.L. c. 111, §§ 142A-142O, G.L. c. 111, §§ 150A-150A½, G.L. c. 21C, G.L. c. 21H, G.L. c. 12, §11D, and G.L. c. 214, §§ 1 and 3. Venue is proper in Suffolk County pursuant to G. L. c. 223, § 5.

4. The Complaint alleges facts, which, if proven, would constitute good and sufficient grounds for the relief set forth in this Consent Judgment.

III. PARTIES BOUND

5. This Consent Judgment shall constitute a binding agreement between the Parties, and Defendants consent to its entry as a final judgment by the Court and waive all rights of appeal upon its entry on the docket. If the Superior Court declines to enter this Consent Judgment on any ground except one related to form, this Consent Judgment is voidable at the option of either Party within fourteen (14) days of the Court's decision. If, on the other hand, the Superior Court determines that substantive modifications to this Consent Judgment are necessary prior to the Court's entry of it, the Parties shall enter into good faith negotiations to discuss the modifications, and this Consent Judgment shall be void unless the Commonwealth and Defendants agree otherwise in writing within fourteen (14) days of the Court's decision.

6. The provisions of this Consent Judgment shall apply to and bind Defendants and any person or entity acting by, for, or through Defendants, including without limitation Defendants' managers, members, directors, officers, supervisors, employees, agents, servants, attorneys-in-

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fact, contractors, successors, assigns, and those persons in active concert or participation with any of the Defendants who receive notice of this Consent Judgment.

7. Defendants shall provide a true copy of this Consent Judgment to all of their managers, members, directors, officers, supervisors, employees, and agents whose duties include compliance with any provision of this Consent Judgment. Defendants shall also provide a copy of this Consent Judgment to any contractor retained to perform work required under this Consent Judgment.

8. No change or transfer in ownership, management, or operation of the facilities owned or operated by the Defendants in Attleboro, Everett, and Worcester, Massachusetts, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendants or their managers, members, officers, directors, agents, contractors, and/or servants of any obligation under this Consent Judgment. At least thirty (30) days prior to any change or transfer of ownership, management, or operation of the facilities owned or operated by the Defendants in Attleboro, Everett, and/or Worcester, Massachusetts, Defendants shall provide a copy of this Consent Judgment to the proposed transferee or new manager or operator and shall simultaneously provide written notice of the prospective change or transfer in ownership, management, or operation of the facility or facilities, together with a copy of the proposed written change or transfer agreement, to the Attorney General in accordance with Section XII (Notices) of this Consent Judgment. The Commonwealth agrees that it will not publicly disclose the commercial terms of a sale or transfer unless required to do so by a court of competent jurisdiction; by the requirements of the Public Records Law, G.L. c. 66, § 10, G.L. c. 4, § 7, cl. 26th; or as necessary to enforce the terms of this Consent Judgment (in each case after reasonable

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advance notice to Defendants). Any attempt to change or transfer ownership, management, or operation of a facility without complying with this Paragraph shall constitute a violation of this Consent Judgment.

9. Defendants shall not violate this Consent Judgment and shall not allow their officers, directors, managers, members, agents, servants, attorneys-in-fact, employees, successors, assigns, or contractors to violate this Consent Judgment. In any action to enforce this Consent Judgment, Defendants shall not raise as a defense the failure by any of its officers, directors, managers, members, agents, servants, attorneys-in-fact, employees, successors, assigns, or contractors to take any actions necessary to comply with the provisions of this Consent Judgment.

10. In addition to any relief specifically provided in this Consent Judgment, Defendants understand and agree that violations of this Consent Judgment may be punishable by contempt.

IV. PAYMENT OF CIVIL PENALTIES

11. Pursuant to G.L. c. 21C § 10, G.L. c. 21H, § 8, G.L. c. 111, §§ 142A-142O, G.L. c. 111, § 150A, and G.L. c. 214, §§ 1 and 3, the Commonwealth assesses, and the Defendants shall pay, a civil penalty of nine hundred thousand dollars ($900,000.00) (the "Civil Penalty"), as follows:

(a) Within thirty (30) days of the Entry Date, Defendants shall pay to the Commonwealth the sum of Four Hundred Fifty Thousand Dollars ($450,000.00). Of this amount, the sum of Three Hundred Thousand Dollars ($300,000.00) shall be paid to the General Fund, and the sum of One Hundred Fifty Thousand Dollars ($150,000) shall be paid to the Natural Resource Damages Trust established

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pursuant to 2011 Mass. Acts Chapter 9, Section 22, amending Chapter 194 of the Acts of 1998. The checks shall be delivered to the Commonwealth, as follows:

i. Via certified check or cashier's check or by electronic funds transfer (as provided for below) in the amount of Three Hundred Thousand Dollars ($300,000.00), made payable to the Commonwealth of Massachusetts, for deposit in the General Fund, and referencing on its face: *Commonwealth of Massachusetts v. Metals Recycling, et al.*, Suffolk Superior Court C.A. No. _____ [add this case number]. The check shall be delivered to:

Frederick D. Augenstern, Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108

ii. Via certified check or cashier's check in the amount of One Hundred Fifty Thousand Dollars ($150,000.00), made payable to the Commonwealth of Massachusetts with a reference to the "Natural Resource Damages Trust – Account 2200-2676." The check shall be sent to:

Massachusetts Department of Environmental Protection
Attn: Kristin LaCroix
Chief Financial Officer
P.O. Box 4062
Boston, MA 02211

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Copies of the check shall be sent to:

Karen I. Pelto
NRD Coordinator
Massachusetts Department of Environmental Protection
Bureau of Waste Site Cleanup
One Winter Street, 6th Floor
Boston, MA 02108

and

Pamela Talbot
Environmental Strike Force
Massachusetts Department of Environmental Protection
One Winter Street, 3rd Floor
Boston, MA 02108

and

Frederick D. Augenstern, Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108

If payment to the General Fund is to be made by electronic funds transfer, the paying defendant shall do so by wiring the funds to the account entitled "Commonwealth of Massachusetts, Office of the Attorney General," Account No. 00088882022, ABA No. 011075150, which account is maintained at Santander Bank, 75 State Street, Boston, Massachusetts 02109. If payment to the Natural Resource Damages Trust is to be made by electronic funds transfer, the paying defendant shall do so by wiring the funds to the account entitled "Commonwealth of Massachusetts, Department of Environmental Protection," Account No. 0500201846, ABA No. 011000138, which account is maintained at Bank of America, 75 State Street, Boston, Massachusetts 02109.

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(b) The balance of the Civil Penalty, being Four Hundred Fifty Thousand Dollars ($450,000.00), shall be suspended (the "Suspended Penalty"). The Commonwealth shall waive Two Hundred Fifty Thousand Dollars ($250,000.00) of this Suspended Penalty seven (7) Business Days from the date PNE completes installation and begins Department-approved continuous operation (after all necessary Department inspections) of the shredder emission control systems described in Paragraph 16, below, and completes installation of associated facility enclosures. The balance of the Suspended Penalty, in the amount of Two Hundred Thousand Dollars ($200,000.00), shall be waived seven (7) Business Days from certain milestones in accordance with the following schedule, as determined by the Department in its sole discretion.

i. Ten Thousand Dollars ($10,000.00) from the date the Defendants make the payments required under Paragraph 11(a) of this Section;

ii. Five Thousand Dollars ($5,000.00) from the date the Defendants make the payment into escrow for the Product Stewardship Institute to conduct the Mercury SEP required under Paragraph 26, below;

iii. Sixty Thousand Dollars ($60,000.00) from the date PNE complies with the requirements in Paragraphs 16-21, below;

iv. Twenty-Five Thousand Dollars ($25,000.00) from the date PNE implements the PM Control Plan as approved by the Department under Paragraph 15, below;

v. Fifty Thousand Dollars ($50,000.00) from the Date the Defendants submit the Tire Pile Removal SEP Completion Report required under Paragraph 25, below, and it is approved by the Department; and

vi. Fifty Thousand Dollars ($50,000.00) from the date of the second anniversary of the Defendants' operation in compliance with the CED and BUD referenced in Paragraph 13, below.

If the Department believes that Defendants have not complied with the above-referenced terms of this Consent Judgment, then it shall notify Defendants in writing of that determination and Defendants shall pay the specified Suspended Penalty amount(s) to the Commonwealth within thirty (30) days of the written determination, unless Defendants request reconsideration of the Department's determination pursuant to Section IX (Dispute Resolution). If Defendants request reconsideration pursuant to Section IX (Dispute Resolution) and the Department's determination ultimately becomes final or is otherwise upheld in whole or in part, Defendants shall pay the specified Suspended Penalty amount(s) to the Commonwealth, for deposit into the General Fund, within thirty (30) days after the Department's determination is final or the court's decision is entered on the docket.

V. COMPLIANCE REQUIREMENTS

12. Nothing in this Consent Judgment shall be construed to relieve the Defendants or any other persons bound by this Consent Judgment of the obligation to comply with all applicable federal, state, and local laws, regulations including, without limitation, the Air Act, the Air Regulations, the HWMA, the HWMA Regulations, the SWMA, the SWMA Regulations, the MMA, and the MMA Regulations, and with all permits and approvals. Any actions required

by this Consent Judgment shall be taken in accordance with all such laws, regulations, permits and approvals.

13. With the temporary sampling exception that follows in the sub-paragraphs set forth below, upon issuance of the Beneficial Use Determination ("BUD") and the Conditional Exclusion Decision ("CED"), the Defendants shall comply with the BUD, the CED, and the Shredder Residue ("SR") Sampling and Analysis Protocols (the "Protocols") attached hereto as Exhibits A, B and C, respectively. The BUD, the CED, and the Protocols are final for all purposes and not subject to any administrative or judicial appeal.

(a) PNE asserts that its current processing configuration produces two (2) fractions of SR on separate conveyor belts: a ¾-inch minus fine material and a ¾-inch plus coarse material. Approximately 75% by volume is ¾-inch plus coarse SR and 25% by volume is ¾-inch minus fine SR mixed with cement kiln dust or Portland cement. These fractions are combined in a mixing bin to create a material called Propat® that is shipped as daily landfill cover. Both SR fractions currently drop from their respective elevated conveyors onto the ground, causing a potential safety hazard to a sampler attempting to take samples from the conveyors. As a result, PNE is currently unable to collect samples in accordance with the contemporaneous procedures contained in 40 CFR § 761.348. PNE has submitted to the Department a Limited Plan Application for permitting of a Fines Processing Line that will combine both fractions. The Fines Processing Line is expected to be in place and functional within a year from the Entry Date.

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(b) Until the coarse and fine fractions can be combined through the permitted use of the Fines Processing Line, but for no longer than 12 months from the Entry Date (unless PNE requests in writing, and the Department grants in writing, an extension), PNE may collect contemporaneous generation SR samples from beneath the conveyor drop points of each conveyor belt. The sampler shall place the sampled SR in a 5-gallon pail using a shovel to avoid individual material hand picking or grabbing, and shall closely approximate the proportions generated in PNE's current processing: 75% by volume of ¾-inch plus coarse SR and 25% by volume of ¾-inch fine SR mixed with cement kiln dust or Portland cement). During the period that this temporary sampling exception is in effect, the remainder of the Protocols for SR shall remain fully in effect, including, without limitation, the modification to 40 CFR § 761.348(c) requiring that samples shall be collected at 10-minute intervals during contemporaneous generation of SR and the requirements for the compositing and subsampling of composite samples.

(c) While being allowed, the temporary sampling procedure described in the preceding sub-paragraph remains disfavored by the Department and the United States Environmental Protection Agency because the procedure allows SR to accumulate on the ground prior to sampling. Consequently, PNE has agreed that it will, prior to the next sampling event in September of 2015, evaluate alternative sampling measures to avoid the deposition of SR on the ground and, if any of the measures are found to be technically feasible, PNE will implement it in lieu of the sampling procedure described in the preceding sub-paragraph after receiving the

approval of the Department. These methods shall include, but shall not be limited to:

(i) attaching a collection receptacle (pail/drum) to an extendable boom to collect SR before it contacts the ground;

(ii) funneling the SR directly to a receptacle (pail/drum) on the ground surface to collect SR before it contacts the ground;

(iii) attaching a collection receptacle (pail/drum) to an aerial lift to collect SR before it contacts the ground; and/or

(iv) placing a lined skid steer/loader bucket directly under the elevated conveyor to collect SR before it contacts the ground.

PNE will consult with operational and safety personnel to ensure that these methods, and any others considered by PNE, do not pose an undue safety risk.

14. PNE reserves its right to seek a reduction in the Protocols sampling frequency based upon a demonstration that test results do not exceed the concentration limits in the BUD and the CED for a period of two consecutive years, but the determination shall be within the sole discretion of the Department. If the Department grants a reduction, then the Protocols, the BUD, and the CED shall be amended accordingly.

15. Within sixty (60) days of the Entry Date, PNE shall submit to the Department a draft Particulate Matter Control Plan ("PM Control Plan") for the Department's review and written approval. The PM Control Plan shall identify all sources of PM generating activities at the Everett Facility and shall describe all of the PM control measures to be implemented to control and mitigate any PM emissions including addressing and permanently remediating the dust

nuisance conditions at the Everett Facility. The PM Control Plan shall also include a schedule that specifies the actions to be taken and completion dates of each action so that the Everett Facility shall be operated in compliance with the Air Regulations, 310 C.M.R. 7.01, 7.09(1) and 7.09(4). Inception of the PM Control Plan shall occur within thirty (30) days of receipt of written approval thereof by the Department. At minimum, the PM Control Plan shall include:

(a) A plot plan and/or maps that identify the relative locations of actual and potential sources of PM emissions and that identify the relative locations of sensitive receptors within ¼ mile of the Everett Facility, such as:

i. Bulk material handling and storage piles;

ii. Paved and unpaved access roads, haul roads, traffic areas, and equipment storage areas;

iii. All materials processing locations, including but not limited to all shredders, fines materials processing locations, barge loading locations, materials transfer locations, material storage locations, recyclable materials drop-off locations, and material conveyor lines locations;

iv. Residential areas, schools, day care, churches, hospitals, nursing facilities, commercial and retail developments, public parks and areas of recreation, etc.;

vi. Exit points where carryout and track out onto paved public roads may occur; and

vii. Any other sensitive receptors.

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(b) A description of permanent engineering controls that shall be implemented by the Defendants to eliminate migration of PM from the Everett Facility, which shall include, but not be limited to, erecting buildings and structures to control PM generated from processing, shredding, sorting, and storage of materials; enclosing conveyors and transfer points to the maximum extent practicable to be determined through consultations between the Defendant and the Department; installing windscreens; sweeping and applying water spray on all access roads; and employing best management practices to eliminate PM emissions and their migration;

(c) A detailed description of the design and operation of the permanent engineering and structural controls and best management practices for the Everett Facility;

(d) A description of the contingencies that will be in place and how they will be implemented if engineering and structural control equipment and/or best management practices becomes inoperable or fail to effectively control fugitive PM emissions from the Everett Facility;

(e) A description of the record keeping and any other supporting documentation that will be maintained and relied upon to demonstrate compliance with the PM Control Plan and applicable Air Regulations;

(f) A detailed description of training on the means and practices to eliminate PM emissions from the Everett Facility that shall be given by the Defendants to all of the Defendants' employees and contractors, including without limitation those who deliver material for shredding at the Everett Facility and those who are

involved in the construction and operation of air quality control equipment at the Everett Facility; and

(g) A detailed description of interim actions to be taken by PNE to abate PM emissions and off-site migration of PM until the Department issues written approval of the PM Control Plan and the PM Control Plan is fully implemented.

16. Within sixty (60) days of the Entry Date, PNE shall, in conformance with 310 C.M.R. 7.02, file a fully completed Comprehensive Plan Application ("CPA") for the existing Riverside Model M-122, 9000 horsepower electrically driven mega shredder located at the Everett Facility. Specifically, the CPA seeking a CPA Plan Approval shall require PNE to properly install and thereafter properly maintain and properly operate:

(a) A pollutant capture system ("PCS") consisting of a shredder enclosure designed through an engineering process that applies the design criteria set forth in the United States Environmental Protection Agency's Method 204 (set forth at 40 CFR Part 51, Appendix M, Test Method 204) to minimize the enclosure's draft openings, and an extraction vent system that operates at a sufficient flow rate to promote air flow into the enclosure to sufficiently capture pollutants emanating from the Everett Facility's mega shredder;

(b) A regenerative thermal oxidizer ("RTO") to control the Everett Facility's emissions of volatile organic compounds ("VOC"), which shall achieve the current Department BACT emission level of ninety-eight percent (98%) VOC destruction efficiency;

(c) An acid gas control system ("wet scrubber") for the control of acid gases, which shall achieve the current Department BACT emission level of ninety-eight percent (98%) control efficiency for the Everett Facility's mega shredder;

(d) A particulate matter control system ("PMCS") consisting of a suitable PM pre-treatment device and wet venturi scrubber that shall achieve a ninety-nine percent (99%) control efficiency for the Everett Facility's mega shredder;

(e) A temporary continuous emissions monitoring system ("TCEMS") to monitor VOC emissions exiting the RTO for approximately sixty (60) days during source testing, which shall meet the United States Environmental Protection Agency's performance specifications under 40 CFR Part 60, Appendix B & F;

(f) A temperature monitoring system ("TMS") to continuously monitor the operating temperature of the RTO consistent with the VOC destruction requirements of sub-paragraph 16.b, above, as determined during source testing;

(g) A PCS gas flow monitoring system to ensure that the PCS is continuously maintained in a vacuum, negative pressure vapor collection mode, consistent with the requirements of Paragraph 16.a, above; and

(h) A data acquisition and handling system ("DAHS") to record and maintain all data monitored by the TCEMS and the PCS gas flow monitoring system.

17. PNE shall respond within thirty (30) days to any request for additional information made by the Department and shall provide to the Department such other and additional information and materials as the Department may request, consistent with 310 C.M.R. 7.02 and the terms of this Consent Judgment, in order to facilitate the Department's review of the CPA.

18. The Department shall make best efforts to issue the CPA Plan Approval for the Everett Facility within One Hundred Twenty Days (120) days of its receipt of an administratively complete CPA. If the Department does not issue a CPA Plan Approval within One Hundred Twenty (120) days, the deadline established in Paragraph 20, below, shall be extended by the same number of days that it takes the Department to issue the CPA Plan Approval beyond the One Hundred Twenty day deadline.

19. Following issuance of a written CPA Plan Approval by the Department, PNE shall properly install, begin proper operation of, and thereafter properly and continuously operate and maintain the PCS, RTO, wet scrubber, PMCS, CEMS, TCEMS, TMS and PCS flow monitoring devices, and DAHS, identified in Paragraph 16 of this Consent Judgment.

20. Within five hundred forty (540) days of issuance of a written CPA Plan Approval by the Department, PNE shall complete the installation and begin continuous operation of the pollutant capture, control, and monitoring systems identified in Paragraph 16 of this Consent Judgment.

21. Following issuance of the CPA Plan Approval by the Department, PNE shall, in accordance with the CPA Plan Approval, submit to the Department for its review and approval a compliance testing protocol and schedule. Upon the Department's approval, PNE shall conduct the compliance testing in accordance with the protocol and timeframes contained in the CPA Plan Approval. Upon completion of the emissions compliance testing, PNE shall submit a written report to the Department for its review and written approval, detailing emissions and removal efficiencies of pollutants in accordance with the timeframes contained in the CPA Plan Approval and protocol.

22. After obtaining the CPA Plan Approval, PNE shall operate the Everett Facility at all times in compliance with said CPA Plan Approval, and with all applicable Air Regulations at 310 C.M.R. 7.00 *et seq.* and Appendix C of 310 C.M.R. 7.00 *et seq.*

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

23. Within sixty (60) days of the Entry Date, the Defendants shall submit in writing to the Department for its review and approval a Tire Removal Plan to implement a Supplemental Environmental Project ("SEP"), as generally described in the "Tire Pile Assessment" dated June 2, 2014, prepared by Tetra Tech, Inc. and attached hereto as Exhibit D ("Tire Pile Removal SEP"). The Tire Pile Removal SEP shall consist of the removal and disposal, in accordance with all applicable laws and regulations, of the tire piles located at 295 North Main Street, 328 North Main Street and 279 North Main Street, Middleton, Massachusetts. The Department shall endeavor to issue its decision on the proposed Tire Removal Plan within sixty (60) days of submission.

24. Within one hundred eighty (180) days of the Department's written approval of the Tire Removal Plan, the Defendants shall implement and complete the tire removal and other work required by the Tire Pile Removal SEP. The maximum amount required to be expended by the Defendants on the Tire Pile Removal SEP is Three Hundred Thousand Dollars ($300,000.00). The Department shall entertain a reasonable request for an extension of time for performance of the Tire Pile Removal SEP based on permitting problems or inclement weather the Defendants may encounter.

25. Within ninety (90) days of the Defendants' full implementation and completion of the approved tire removal and other work required by the Tire Pile Removal SEP, the Defendants

shall submit to the Department a written report (the "Tire Pile Removal SEP Completion Report") that includes, at a minimum, the following documentation and information for the Department's review and approval:

(a) a qualitative description of the environmental and public health benefits resulting from implementation of the Tire Pile Removal SEP;

(b) the itemized costs incurred in performing the Tire Pile Removal SEP; and

(c) a certification, signed by an official with knowledge of the Tire Pile Removal SEP, that the Tire Pile Removal SEP has been fully implemented pursuant to the provisions of the Department's approval and the Consent Judgment, as follows:

> [Name], [Title], hereby attests under the penalties of perjury: (a) that I have personally examined and am familiar with the information contained herein; (b) that the information contained herein is true, accurate, and complete to the best of my knowledge and belief; (c) that the Defendants caused the implementation of the Tire Pile Removal SEP to be carried out in accordance with the Department's approval and the requirements of the Consent Judgment; and (d) that I am fully authorized to make this attestation on behalf of the Defendants. I am aware that there are significant penalties, including without limitation possible fines and imprisonment, for willfully submitting false, incomplete or inaccurate information.

/s/_____

Date: _____

26. In order to help improve the handling of mercury-containing consumer products, the Defendants shall pay to the Product Stewardship Institute ("PSI"), a non-profit entity focused on sustaining end-of-life product management, and committed to reducing adverse health, safety, and environmental impacts of such products, the sum of Fifty-Thousand Dollars ($50,000.00) for PSI to conduct the Mercury SEP that is described in Exhibit E, which is attached hereto and

made a part hereof. Within thirty (30) business days of the Entry Date, the Defendants shall place the sum of Fifty-Thousand Dollars ($50,000.00) in escrow with Mackie Shea, PC, of 20 Park Plaza, Suite 1118, Boston, Massachusetts 02116, as "Escrow Agent," to be distributed as follows. Once the Department approves PSI's performance of an objective described in the Mercury SEP, the Department shall give written notice to the Defendants, who shall, within ten (10) days of receipt of each notice, pay to PSI through the Escrow Agent the amount the Department directs be paid, by corporate check, certified check or bank check. Once the Defendants have remitted payments totaling the sum of Fifty-Thousand Dollars ($50,000.00) on the Department's directions, the Defendants shall have no further obligations with respect to the Mercury SEP, except to document to the Department that such sum has actually been paid. Upon making a payment under this Paragraph, the Defendants shall concurrently mail a copy of each check to the Department and to the Attorney General at the addresses set forth in Section XII (Notices). The Defendants shall clearly write on the face of each check *"Commonwealth of Massachusetts* v. *Metals Recycling, L.L.C., et al.*, Suffolk Superior Court C.A. No. [insert this case number]; Mercury SEP." The payments shall be made to Product Stewardship Institute, 29 Stanhope Street, Boston, Massachusetts 02116 (Attention: Scott Cassel).

27. The maximum amount required to be expended by the Defendants on the Mercury SEP is Fifty Thousand Dollars ($50,000.00), unless additional funds become available pursuant to Paragraph 28 of this Consent Judgment. Payment of the funds for the Mercury SEP in no way obviates or alters the Defendants' obligation to comply with the provisions of the MMA, the MMA Regulations, and all other applicable laws and regulations pertaining to controlling mercury pollution.

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28. If the Tire Pile Removal SEP costs less than $300,000.00 to complete, Defendants shall pay the balance of the $300,000.00 to PSI for expanded implementation of the Mercury SEP that is set forth in Exhibit E hereto, and any such payment shall be made in accordance with the payment instructions described in Paragraph 26, above.

29. Any dispute concerning the satisfactory performance of either the Tire Pile Removal SEP or the payment for performance of the Mercury SEP, or the amount of SEP-eligible costs, may be resolved pursuant to Section IX (Dispute Resolution) of this Consent Judgment.

30. Any public statement, oral or written, in print, film, electronic or other media, made by Defendants that makes reference to a SEP performed pursuant to this Consent Judgment shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action, *Commonwealth v. Metals Recycling, L.L.C., et al.*, Suffolk Superior Court C.A. No. _____ [add this case number], under the Massachusetts Solid Waste Management Act and its implementing regulations (for the Tire Pile Removal SEP), and the Massachusetts Mercury Management Act and its implementing regulations (for the Mercury SEP)."

31. For Federal and State income tax purposes, Defendants agree that they will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in the performance of the SEP required by this Section.

VII. INTEREST AND COLLECTIONS

32. If any payment required pursuant to this Consent Judgment is late or not made, the Defendants shall pay interest on any overdue amount for the period of such nonpayment at the annual rate of twelve percent (12%) pursuant to G.L. c. 231, § 6B, computed monthly, and shall

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pay all expenses associated with collection by the Commonwealth of the unpaid amounts and interest for any period of nonpayment after the payment obligation becomes due, including reasonable attorneys' fees.

VIII. FORCE MAJEURE

33. Defendants shall perform the actions required by Section V (Compliance Requirements) within the time limits established in that Section, unless the performance is prevented or delayed solely by events that constitute a force majeure event. A force majeure event is an event that arises from causes entirely beyond Defendants' control that will delay or prevent the performance of any action required by Section V (Compliance Requirements) despite Defendants' due diligence. A force majeure event does not include, among other things, unanticipated or increased costs of performance, changed economic circumstances, or a financial inability to perform. Except as excused by the Department pursuant to this Section, delay on the part of Defendants' contractors, subcontractors, or consultants shall be attributable to Defendants. The Commonwealth will not seek to collect the Suspended Penalty (or any part thereof) for a period of delay excused by the Department pursuant to this Section. In its sole discretion, the Department may extend a time limit when delay in performance of the action required does not constitute a force majeure event. In such a case, the Department's decision to do so, or not to do so, shall be unreviewable by the Superior Court.

34. Any request to extend a deadline set forth in Section V (Compliance Requirements), including a deadline in a plan submitted to the Department by Defendants pursuant to that Section, shall be made in writing to the Department, with a copy to the Attorney General, prior to the expiration of the deadline. In its written request to the Department, Defendants shall describe

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(a) what action has been affected, (b) the anticipated length of delay, (c) the cause of the delay, and (d) the steps or measures it will take to prevent or minimize the delay. Upon receipt of a timely request for an extension under this Section, the Department may, in its discretion, grant additional time if it is persuaded that the delay in performance is the result of a force majeure event. If the Department does not agree that a force majeure event has occurred or does not agree to the length of the extension of time sought by Defendants and that disagreement cannot be resolved by informal negotiation, then the Department will notify Defendants in writing of the Department's position, which shall be binding unless Defendants invoke the Dispute Resolution procedures set forth in Section IX (Dispute Resolution), except that Defendants must invoke those procedures within seven (7) days after receipt of the Department's written notice. In any proceedings under Section IX (Dispute Resolution), Defendants shall bear the burden of demonstrating, by a preponderance of the evidence, that (a) Defendants provided the written request required above, (b) the delay in performance is the result of circumstances entirely beyond Defendants' control, and (c) Defendants could not have prevented or avoided the delay by the reasonable exercise of due care, foresight, or due diligence. Defendants' failure to comply with the notice requirements of this Paragraph shall constitute waiver of its right to request an extension of time with regard to any delay, and a waiver of any right to relief from the deadlines in Section V (Compliance Requirements) or any plan submitted to the Department pursuant to that Section.

IX. DISPUTE RESOLUTION

35. Unless otherwise provided in this Consent Judgment, the Dispute Resolution procedures in this Section shall be the exclusive mechanism to resolve disputes arising under or

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with respect to this Consent Judgment. These procedures, however, shall not apply to actions by the Commonwealth or the Department to enforce obligations of Defendants that have not been disputed in accordance with this Section.

36. If Defendants disagree with a written determination of the Department made pursuant to this Consent Judgment, then Defendants may, within thirty (30) days of the date of the Department's determination, request reconsideration of the determination by submitting to the Department, with a copy to the Attorney General, any information or material it believes demonstrates that the Department's determination was erroneous. Unless otherwise provided in this Consent Judgment, Defendants' failure to submit a request for reconsideration within the period specified in this Paragraph shall constitute a waiver of Defendants' ability to seek reconsideration and, in that case, the Department's determination shall be final and unreviewable. If, after consideration of a timely request for reconsideration, the Department decides to affirm, in whole or in part, its original determination, then the Department shall notify Defendants in writing of the Department's determination on reconsideration within seven (7) Business Days following receipt of the request.

37. The Department's determination on reconsideration shall be final unless Defendants seek judicial review of the dispute by filing with the Court and serving on the Commonwealth, in accordance with Section XII (Notices), a motion in this case requesting judicial resolution of the dispute within fourteen (14) days of receipt of the Department's determination. In an action for judicial review under this Section, Defendants shall bear the burden of demonstrating that the Department's determination on reconsideration was arbitrary and capricious or otherwise not in accordance with law. Defendants' motion and supporting memorandum shall not raise any new

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issues or be based on new facts or information that Defendants did not present previously to the Department during the dispute resolution process described in this Section.

X. EFFECT OF CONSENT JUDGMENT

38. Upon compliance with the requirements of Section IV (Payment of Civil Penalties), the Paragraphs in Section V identified in Paragraph 11(b) (Compliance Requirements), Section VI (Supplemental Environmental Projects), and Exhibits D and E to this Consent Judgment, or at the time the termination provision set forth in Paragraph 54, below, becomes effective in accordance with its terms, (a) this Consent Judgment shall resolve Defendants' liability for the specific legal claims alleged against them in the Complaint that arose prior to the entry of this Consent Judgment, and (b) the Defendants shall be released, without further action of or by the Commonwealth, from liability for the specific legal claims alleged against Defendants in the Complaint that arose prior to the entry of this Consent Judgment.

39. Nothing in this Consent Judgment, or any permit or approval issued by the Department relative to the Attleboro, Everett or Worcester facilities, (a) shall bar any action by the Commonwealth on any legal claim not specifically pleaded in the Complaint or for any violations not revealed to the Commonwealth; (b) shall be deemed to excuse compliance by Defendants or any of the persons or entities otherwise bound by this Consent Judgment with any law or regulation; or (c) shall preclude a separate or ancillary action by the Commonwealth to enforce the terms of this Consent Judgment, any permit or other approval issued by the Department relative to the Attleboro, Everett or Worcester facilities. The Commonwealth expressly reserves all claims for injunctive relief for violations of all of the statutes and

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regulations referred to in this Consent Judgment, whether related to the specific legal claims resolved by this Consent Judgment or otherwise.

40. Nothing in this Consent Judgment shall be construed to create any rights in, or grant any claim or cause of action to, any person not a party to this Judgment.

XI. MISCELLANEOUS

41. Defendants understand and agree that the Civil Penalty and any other costs or sums that Defendants may be required to pay under this Consent Judgment are not subject to discharge in any bankruptcy proceeding.

42. Defendants shall pay all expenses, including reasonable attorneys' fees and costs, reasonably incurred by the Commonwealth in the event the Commonwealth takes action to enforce this Consent Judgment.

43. Defendants waive entry of findings of fact and conclusions of law pursuant to Rule 52 of the Massachusetts Rules of Civil Procedure with respect to the approval of this Consent Judgment.

44. The titles in this Consent Judgment have no independent legal significance and are used merely for the convenience of the Parties.

45. Massachusetts law shall govern the interpretation and enforcement of this Consent Judgment.

46. Upon entry of the Consent Judgment, the Department shall process the Limited Plan Application filed with the Department in May 2012 for the Fines Processing Line to be added to the Joint Products facility at the Everett facility.

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47. In computing any period of time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or State or Federal holiday, the period shall run until the close of business of the next Business Day.

XII. NOTICES

48. Unless otherwise specified in this Consent Judgment, notices and submissions required by this Judgment shall be made in writing by first class mail, overnight mail, or hand delivery to the following addresses:

For the Attorney General's Office and the Commonwealth:

Fred Augenstern
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108

For the Department:

Pamela Talbot
Environmental Strike Force
One Winter Street
Boston, MA 02108

Susan Ruch, BWP DRD
MassDEP Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

Jeanne Argento
MassDEP Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

For Defendants:

Metals Recycling, L.L.C.
Prolerized New England Company LLC
c/o Schnitzer Steel Industries, Inc.
Attn: General Counsel
299 SW Clay Street, Suite 350
Portland, Oregon 97201

For Correspondence to the Defendants, a Copy (which shall not constitute notice to Defendants) to:

John F. Shea, Esq.
Mackie Shea, PC
20 Park Plaza, Suite 1118
Boston, MA 02116

or, to such other place or to the attention of such other individual as a Party may from time to time designate by written notice to the other Party to this Consent Judgment.

XIII. INTEGRATION

49. Except as expressly set forth in this Consent Judgment, this Consent Judgment sets forth all of the obligations of the Parties and represents the complete and exclusive statement of the Parties with respect to the claims alleged in the Complaint and the terms of the settlement and Consent Judgment embodied by this Consent Judgment; any other representations, communications or agreements by or between the Parties shall have no force and effect.

XIV. MODIFICATION

50. The terms of this Consent Judgment may be modified only by a subsequent written agreement signed by the Parties. Where the modification constitutes a material change to any term of this Consent Judgment, it shall be effective only by written approval of the Parties and the approval of the Court. The Department's decision to extend a deadline in or waive a payment under this Consent Judgment shall not constitute a material change for purposes of this Paragraph.

51. Any disputes concerning modification of this Judgment shall be resolved pursuant to Section IX (Dispute Resolution) of this Consent Judgment, provided, however, that instead of the burden of proof provided in Section IX (Dispute Resolution), the party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Rule 60(b) of the Massachusetts Rules of Civil Procedure.

XV. AUTHORITY OF SIGNATORY

52. The person(s) signing this Consent Judgment on behalf of Defendants

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acknowledge(s): (a) that he or she has personally read and understands each of the numbered Paragraphs of this Consent Judgment, including any Appendices and Exhibits attached to it; (b) that, to the extent necessary, Defendants' managers, members, directors, officers, and shareholders have consented to Defendants entering into this Consent Judgment and to its entry as a final judgment; and (c) that he or she is authorized to sign and bind Defendants to the terms of this Consent Judgment.

XVI. EFFECTIVE AND TERMINATION DATES

53. This Consent Judgment shall be effective when the Superior Court enters the Consent Judgment on the Court's Docket.

54. On the seventh (7th) anniversary of the Entry Date, this Consent Judgment shall cease to have any further force or effect as to the Defendants; *provided, however*, that this termination provision shall not become effective if at the time of the triggering anniversary, the Defendants have not made all payments to the Commonwealth that are due or that have become due pursuant to any provision of this Consent Judgment, or if the Defendants have not completed all of the affirmative, injunctive, and remedial obligations required by this Consent Judgment, as determined by the Department in its discretion, or if there is pending any action by the Commonwealth against either Defendant to enforce the terms of this Consent Judgment because of alleged non-compliance by either Defendant or any successor or assign of either Defendant. In such circumstances, this termination provision shall not become effective until the Department determines, in its discretion, or a court of competent jurisdiction has ruled, that the Defendants or any successor or assign has returned to compliance with the terms of this Consent Judgment and the offending action described in the preceding sentence is fully resolved. Nothing in this

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termination provision shall relieve either Defendant or any successor or assign from compliance with any other obligations that may exist pursuant to any State, federal, or local law or regulation.

XVII. RETENTION OF JURISDICTION

55. The Court shall retain jurisdiction over this case for purposes of resolving disputes that arise under this Consent Judgment, entering orders modifying this Consent Judgment, or effectuating or enforcing compliance with the terms of this Consent Judgment and any permits, approvals, or directives issued by the Department pursuant to the terms of this Consent Judgment.

XVIII. FINAL JUDGMENT

56. Upon approval and entry of this Consent Judgment by the Court, this Consent Judgment shall constitute a final judgment of the Court.

XIX. SITE ACCESS AND PRESERVATION OF RECORDS

57. The Department shall have the right to enter the metal recycling facilities owned or operated by the Defendants in Attleboro, Everett, and Worcester, Massachusetts, where the Defendants recycle scrap metals from salvage and demolition projects, as well as automobiles, appliances, and other forms of scrap metals, and any other locations and places of business within the Commonwealth that the Defendants may maintain, at all reasonable times, without securing any judicial or administrative warrants or other process, for the purposes of conducting any activity related to the enforcement of the terms of this Consent Judgment, or for inspections and monitoring compliance with any applicable laws, regulations, permits or approvals, including without limitation those referred to in or attached to this Consent Judgment. The

Defendants expressly consent to such entry by the Department. During any inspection, Department personnel may take videos or photographs of anything at any location; may obtain copies of any record or other documentary evidence regarding the operations at the location that is kept at the location or at any other site that is under the control of the Defendants; and may take such samples of the air, any waste, any product, soil, water, or other materials at the location being inspected. The Defendants may be present during any inspections; shall be entitled to take duplicate samples; shall be provided timely copies of all photographs or recordings; and shall have timely access to any gathered materials or tangible evidence. Any information, documents, samples, visual or recorded evidence, or materials or tangible evidence gathered by the Department during any inspection pursuant to this Paragraph may be used by the Commonwealth in an action to enforce this Consent Judgment or in any other administrative, civil, or criminal enforcement action against the Defendants, or any successor or assign.

58. In addition to complying with any other applicable State, local, or federal records preservation requirements, until five (5) calendar years after the Defendants complete all of the requirements set forth in this Consent Judgment, the Defendants shall preserve and maintain at least one legible copy of all documents and other records in their possession, custody, or control that are specifically required for the performance of any obligations under this Consent Judgment, and shall likewise preserve and maintain all construction, operating, financial and other documents and records for all aspects of their operations at the metal recycling facilities owned or operated by the Defendants in Attleboro, Everett, and Worcester, Massachusetts. If the Defendants retain or employ any agent, consultant, or contractor for the purpose of complying with the terms of this Consent Judgment, then the agreement or contract with the agent,

consultant, or contractor shall require such person or persons to provide the Defendants with a copy of all documents and other records relating to the performance of the obligations under this Consent Judgment. This requirement includes electronic documents and records. Any copies of documents and other records subject to this requirement may be maintained in an electronic format. Unless a different time is provided for elsewhere in this Consent Judgment, the Defendants shall provide to the Department a copy of any document or other record requested by the Department related to this Consent Judgment within ten (10) days of a written or oral request to do so.

XX. PAYMENT OF STIPULATED PENALTIES

59. This Stipulated Penalty provision shall apply from the point in time the Commonwealth has waived the entire Suspended Penalty or collected it, as provided for in Section IV (Payment of Civil Penalties) of this Consent Judgment, until the point in time this Consent Judgment terminates in accordance with Section XVI (Effective and Termination Dates), above. Subject to that restriction, in addition to the payments due under Section IV (Payment of Civil Penalties), and subject to the proviso set forth below, an offending Defendant shall pay stipulated civil penalties to the Commonwealth for each violation of any requirement in Section V (Compliance Requirements), with each day such violation occurs or continues constituting an additional violation, as follows:

Period of Noncompliance	Penalty Per Day
1st through 30th day	$2,500.00
31st through 90th day	$5,000.00
Each day after the 90th day	$10,000.00

60. All penalties due under this Section shall be paid by an offending Defendant, unless excused by the Force Majeure provision in Section IX, within thirty (30) days of that

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Defendant's receipt of a written demand from the Commonwealth. Payment shall be made by means of a certified check made payable to the "Commonwealth of Massachusetts" and sent to the Attorney General's Office in accordance with Section XII (Notices). Each check shall include on its face the following information: "*Commonwealth v. Metals Recycling, L.L.C., et al.*, Suffolk Superior Court C.A. No. _____ [add this case number] - Stipulated Civil Penalties."

61. If an offending Defendant disagrees that the act or omission to act on which the Commonwealth's written demand is based constitutes a violation of the terms of this Consent Judgment, then the offending Defendant may request reconsideration of the Commonwealth's written demand pursuant to the terms of Section IX (Dispute Resolution). If an offending Defendant seeks timely review of an adverse determination after reconsideration under Section IX (Dispute Resolution) in this Court and the Court (or any final appellate review) affirms the Commonwealth's position in whole or in part, then the offending Defendant shall, within thirty (30) days of the Court's decision, pay each stipulated civil penalty (except any denied by the Court) due from the date each violation occurred until the date compliance is achieved, together with the interest and costs provided for in Section VII (Interest and Collections). If, however, an offending Defendant appeals the Superior Court's decision and the appellate court affirms the lower court's decision, in whole or in part, the offending Defendant shall, within thirty (30) days of the final appellate court's decision, pay each stipulated civil penalty (except any denied by the Court) due from the date each violation occurred until the date compliance is achieved, together with the interest and costs provided for in Section VII (Interest and Collections).

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62. If an offending Defendant fails to pay stipulated penalties when due, the Commonwealth may institute proceedings to collect the penalties, as well as interest and expense pursuant to Section VII (Interest and Collections).

63. If the Commonwealth collects stipulated penalties pursuant to this Section, then neither the Commonwealth nor the Department may also seek administrative or civil penalties for the same violations in a separate administrative or civil action. If the Commonwealth elects not to collect stipulated civil penalties pursuant to this Section, then the Commonwealth and/or the Department may seek any available alternative administrative or civil penalties for any violations of any requirements in Section V (Compliance Requirements). This Paragraph shall not bar the Commonwealth from otherwise enforcing the terms of this Consent Judgment. Nor shall the payment of stipulated civil penalties alter any Defendant's obligation to complete performance as required by this Consent Judgment.

64. Notwithstanding any other provision of this Section, the Commonwealth may, in its unreviewable discretion, reduce or waive any stipulated civil penalties, interest, or costs that have accrued pursuant to this Consent Judgment.

IT IS SO ORDERED. JUDGMENT is hereby entered in accordance with the foregoing.

By the Court:

Heidi E. Brieger

JUSTICE, SUPERIOR COURT

9/29/15

Date

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The Undersigned Parties enter into this Consent Judgment in the matter of *Commonwealth v. Metal Recycling, L.L.C., et al* (Suffolk Superior Court).

FOR THE COMMONWEALTH OF MASSACHUSETTS

MAURA HEALEY
ATTORNEY GENERAL

Frederick D. Augenstern
BBO No. 553102
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2427
Fred.Augenstern@state.ma.us

Dated: 9/24/15

FOR METALS RECYCLING, L.L.C.,
By its sole managing member,

Michael R. Henderson, President
Joint Venture Operations, Inc.
299 SW Clay, Suite 350
Portland, OR 97201
(646) 278-9704
mrhenderson@schn.com

Dated: 9/17/15

FOR PROLERIZED NEW ENGLAND COMPANY, LLC,
By its duly authorized representative,

Michael R. Henderson, President
Joint Venture Operations, Inc.
299 SW Clay, Suite 350
Portland, OR 97201
(646) 278-9704
mrhenderson@schn.com

Dated: 9/17/15

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AS ESCROW AGENT FOR THE MERCURY SUPPLEMENTAL ENVIRONMENTAL PROJECT DESCRIBED ABOVE

John F. Shea, Esq.
Mackie Shea, PC
20 Park Plaza, Suite 1118
Boston, MA 02116
(617) 266-5700
jfs@lawmso.com

EXHIBIT A

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection
One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK
Governor

RICHARD K. SULLIVAN JR.
Secretary

DAVID W. CASH
Commissioner

BENEFICIAL USE DETERMINATION (BWP SW 40)
Prolerized New England Company, L.L.C.
Propat® and Shredder Residue as Daily Cover
Statewide Beneficial Use Determination
Expiration Date: October XX, 2020

[DATE]

Applicant Name:	**Prolerized New England Company, L.L.C.**
Mailing Address:	**P.O. Box 490905** **69 Rover Street** **Everett, MA 02149**
Name of Facility:	**Prolerized New England Company, L.L.C. (hereinafter referred to as "PNE Everett Facility")**
Facility Address:	**69 Rover Street** **Everett, MA 02149 (hereinafter referred to as "Site")**
Operator:	**Prolerized New England Company, L.L.C.**
DEP Region:	Department of Environmental Protection Business Compliance Division 1 Winter Street Boston, MA 02108
Transmittal No.:	**[TRANSMITTAL No.]**

This information is available in alternate format. Call Michelle Waters-Ekanem, Diversity Director, at 617-292-5751. TDD# 1-866-539-7622 or 1-617-574-6868
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

I. APPLICATION INFORMATION FOR BENEFICIAL USE DETERMINATION PERMIT

A.	Title of Submittal:	BWP SW 40 – Beneficial Use Determination
B.	Applicant Name:	Prolerized New England Company, L.L.C. ("PNE")
C.	Transmittal No.:	_____
D.	Beneficial Use:	"Use of Propat® and Shredder Residue as Alternative Daily Cover"

Application Prepared By: PNE and Schnitzer Steel Industries, Inc.

II. PERMIT HISTORY

A. PNE's Conditional Exclusion Decision for Auto Shredder Residue was issued on _____, 2015 (the "2015 CED"). The 2015 CED supersedes all previous Conditional Declassification Decisions for Auto Shredder Residue, including the one originally issued by the Department on January 19, 1989, and most recently amended on December 22, 2010 ("CDD").

B. PNE's Beneficial Use Determination for Propat®, issued on February 28, 1994 (the "1994 BUD"), is superseded by this Beneficial Use Determination (the "Current BUD").

C. Metals Recycling, LLC ("MR"), Johnston, R.I.'s Conditional Exclusion for Auto Shredder Residue, issued on _____, 2015, supersedes all previous Conditional Declassification Decisions for Auto Shredder Residue, including the one issued most recently on December 22, 2010.

D. MR's Beneficial Use Determination for Propat®, issued on issued on _____, 2015, supersedes all previous Beneficial Use Determinations for Auto Shredder Residue, including the one issued most recently on November 17, 2000.

III. BENEFICIAL USE DETERMINATION BACKGROUND

A. Parties

1. PNE owns and operates a shredding and metals recycling facility, the "PNE Everett Facility," which is located at 69 Rover Street, Everett, Massachusetts (the "Everett Site"). The PNE Everett Facility includes a plant that is capable of processing Non-ferrous Raw (NFR"), the non-magnetic residual product which results from separation of ferrous metal immediately following the shredding process, to extract additional metals and recyclable materials.

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2. MR is a Rhode Island Limited Liability Company that owns and operates a shredding and metals recycling facility located at 89 Celia Street, Johnston, R.I. (the "RI Site").

3. PNE and MR are wholly-owned subsidiaries of Schnitzer Steel Industries, Inc.

4. PNE has operated under the CDD, originally issued by the Department on January 19, 1989, and most recently amended on December 22, 2010. PNE has produced Propat® under the 1994 BUD since its issuance by the Department on February 28, 1994. The non-ferrous metals recovery plant at the Everett Site processes NFR generated at the RI Site and the Everett Site for the recovery of non-ferrous metals and the production of shredder residue ("SR") and/or Propat®. PNE has processed NFR from MR's RI Site since 2010.

5. MR has operated under a CDD, originally issued by the Department on January 31, 2001, and which has subsequently been amended to the current CDD dated December 22, 2010. MR has produced Propat® and shipped NFR to the Everett Site under a Beneficial Use Determination issued by the Department on November 17, 2000 (the "MR BUD").

B. Auto Shredder Residue Definitions

1. NFR is the non-magnetic residual product which results from separation of ferrous metal immediately following the shredding process. NFR is a valuable product which contains various non-ferrous metals and non-metallic material.

2. SR, which is primarily the non-metallic components of shredder feedstock, is a by-product of the removal of ferrous metal and non-ferrous metal from NFR by processing equipment located downstream from shredding operations. SR is a heterogeneous waste whose composition varies based on the composition of the shredder feedstock.

3. Propat® is the patented and trademarked name given by PNE to a shredder residue product that is intended to be used as an alternative landfill cover material, and is a sub-category of SR.

C. Auto Shredder Residue Process Description at the PNE Everett Facility.

1. The PNE Everett Facility includes a non-ferrous metals recovery plant that is capable of processing NFR to extract additional metals and recyclable materials. The non-ferrous metals recovery plant at the Everett Site processes NFR generated there and at the RI Site for the recovery of non-ferrous metals and the production of SR and/or Propat®.

2. The non-ferrous metals recovery plant utilizes proprietary sorting mechanisms typically made up of eddy current systems, sensor-sorter units, and infrared scanners to extract non-ferrous metals from the NFR resulting in the non-metallic material known as SR.]

D. Propat® Manufacturing Process Description at PNE

1. Propat®, a patented and trademarked alternative landfill cover material which is a sub-category of SR, is produced by adding cement kiln dust (CKD) or Portland cement to SR at the downstream end of the non-ferrous metals recovery plant. The CKD or Portland cement is stored in a silo and added directly onto the SR conveyor at a predetermined rate. The CKD or Portland cement is further distributed throughout the heterogeneous material via mixing in the on-site stockpile.

IV. NEW BENEFICIAL USE DETERMINATION

This Current BUD sets requirements for PNE's handling, reuse, testing, and reporting of Propat®, SR, and NFR, including general permit conditions, record keeping and reporting requirements. The requirements are specified in the following sections:

Section V.	General Permit Conditions
Section VI.	Policies & Training
Section VII	Operating and Handling Conditions
Section VIII.	Sampling and Analysis
Section IX.	Material Conditions
Section X	Management Options
Section XI.	Landfill Conditions-Use as ACM
Section XII.	Record Keeping and Reporting Requirements
Section XIII.	Right of Appeal

This application complies with the requirements of 310 C.M.R. 19.000, "Solid Waste Management Facility Regulations," and was reviewed in accordance with 310 C.M.R. 19.060, Beneficial Use of Solid Wastes. The Department determines that the SR, generated as described above at the Everett Site, alone, or when mixed with CKD or Portland cement to form Propat®, may be beneficially used for daily cover at certain landfills, subject to the conditions listed below.

The Department believes that improved waste management procedures and market development may facilitate higher uses for materials, and encourages PNE and MR to continuously evaluate its process to identify alternatives.

This Current BUD is valid for a period of five (5) years from the date of issuance. For the specific expiration date and conditions for its renewal please refer to Section V(N) below.

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V. GENERAL PERMIT CONDITIONS

A. A determination of beneficial use means the Propat®, SR, and NFR are NOT classified as a solid waste ONLY when used in accordance with the requirements of this determination and the other BUDs and CEDs issued to PNE and MR. The Propat®, SR, and NFR shall not be handled or utilized in a manner that will result in the Propat®, SR, or NFR becoming a solid waste.

B. Propat® and SR used as alternative daily cover or fuel shall be limited to Propat® and SR generated by the PNE Everett Facility at the Everett Site, as described in Section III above.

C. Propat® and SR generated by the PNE Everett Facility at the Everett Site may only be used as daily cover material at properly assigned landfills located in the Commonwealth of Massachusetts with composite liners and leachate collection systems approved by the Department, and only when used in accordance with this Current BUD and the 2015 CED, and all relevant conditions of the landfill's federal, state, and local permits and approvals.

D. The beneficial use of Propat®, SR, and NFR shall be in compliance with all other applicable state and federal laws and regulations.

E. The Department reserves the right to rescind, suspend or modify this Current BUD by the imposition of additional conditions if:

1. the Department determines the processing or use of Propat®, SR, or NFR has created a situation of significant odor, dust, or otherwise creates nuisance conditions, including without limitation a condition of air pollution;

2. the Department determines the use of Propat®, SR or NFR may cause, or significantly contribute to, an increase in serious irreversible, or incapacitating reversible illness or otherwise poses an actual, or threat of, adverse impact to human health safety, or welfare or to the environment;

3. the Department or the United States Environmental Protection Agency should adopt standards or requirements which are additional to, or more stringent than, the standards or requirements set forth herein;

4. the Department or the United States Environmental Protection Agency determines that additional or alternative measures may be adopted that are safer and more protective to public health, safety, and welfare of the environment and/or that reduce contaminant levels in Propat®, SR, or NFR;

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5. the Department determines that Propat®, SR, or NFR treated in the manner set forth herein is in non-compliance with any applicable statute or regulation, either now in effect or hereinafter enacted; or

6. the Department determines PNE or MR has failed to comply with the terms of their respective CEDs or BUDs, including the attached *"Auto Shredder Sampling and Analysis Protocols.*

F. The Department continues to actively review ways to improve recycling of materials. As such, the Department reserves its right to modify this Current BUD in order to improve performance standards and enhance the waste processing, transfer, and recycling functions.

G. PNE shall provide the Department, within two weeks or other time period as may be approved by the Department, any information which the Department may request and which is deemed by the Department to be relevant in determining whether a cause exists to modify, revoke, or suspend this Current BUD, or to determine whether PNE is complying with the terms and conditions of the permit.

H. Personnel Training. PNE shall instruct or give on-the-job training to personnel involved in any activity authorized by the permit and in accordance with Section VI of this Current BUD. Such instruction or on-the-job training shall teach personnel how to comply with the conditions of the permit and to carry out the authorized activity in a manner that is not hazardous to public health, safety, welfare, or the environment.

I. Failure to comply with this determination shall be grounds for enforcement action, including, without limitation, permit suspension and revocation.

J. PNE must notify the Department of any proposed changes in its process that may modify the physical or chemical nature of the Propat®/SR. A change in processing or use of the Propat® and/or SR other than as presented in the Current BUD application will require additional review and approval by the Department.

K. PNE must notify the Department of any sample results indicating significant changes (greater than 50% increase or decrease over previous rolling average) in the levels of any contaminants of concern.

L. A copy of this Current BUD shall be supplied to any Massachusetts landfill presently using or intending to use PNE's Propat® and/or SR as daily cover or grading and shaping material. PNE shall annually obtain a signature from the landfill operator indicating that the landfill operator has received a copy of the permit and is aware of the permit conditions

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that relate to landfill requirements. PNE shall keep records showing such landfill operator's signature at the Everett Site available for inspection by the Department for five (5) years.

M. *Transfer of Permits*. Pursuant to 310 C.M.R. 19.044 and any requirement to provide the Department notice for a transferred permit to remain effective, written proof that the transfer has been completed must be provided to the Department within thirty (30) days of the effective date of the transfer. If the transfer involves the conveyance of real estate, written proof that such conveyance has been duly recorded in the appropriate Registry of Deeds or Land Court must be provided.

N. *Permit Expiration and Renewal*. This Current BUD is valid for a period of five (5) years from the date of issuance, and shall expire on October XX, 2020. To request a renewal of this Current BUD, PNE shall submit a BUD Modification Application, BWPSW44 no later than sixty (60) days prior to the date of expiration of this Current BUD, accompanied by a report describing all efforts undertaken during the pendency of this Current BUD and currently planned to enhance the recovery of recyclable materials and to reduce the volume and toxicity of the material disposed of in landfills.

VI. POLICIES & TRAINING

A. PNE shall ensure that its employees, agents and representatives carry out the authorized activities in a manner that is not hazardous to public health, safety, welfare, or the environment by training employees, including all inspectors, scale attendants and yard employees whose job assignments include handling of shredder feedstock, other employees in a position to identify materials described in section VI.B and any other employees who may be responsible for environmental compliance ("affected employees").

B. PNE shall develop and continually update an SR/Scrap Management Plan for PNE's Massachusetts facilities that handle scrap metal, SR or NFR. The SR/Scrap Management Plan shall, at a minimum:

1. Contain facility-specific written policies for each facility concerning the acceptance and rejection of materials

   a) that may cause SR to exceed the maximum contamination levels set forth in Section IX (C); or

   b) that might otherwise cause SR to exceed other applicable hazardous waste thresholds; or

   c) that may contain other unacceptable materials, including but not limited to asbestos, oil, or contaminated soil;

2. Require that all items that may cause SR produced at or shipped from the Everett Site to exceed the maximum contamination levels set forth in Section IX (C), or that may cause the exceedance of other applicable hazardous waste thresholds, be removed or drained of fluids. These items include, but are not limited to, automobile components such as batteries, gas tanks, oil filters and crankcases, as well as mercury switches and other mercury containing devices, PCB containing items, including but not limited to capacitors and lighting ballasts;

3. Require that all items containing or that are reasonably suspected of containing asbestos be rejected or segregated in such a manner as to prevent worker exposure. Segregated materials suspected of containing asbestos shall be tested to determine whether such items contain asbestos, and, if such items contain asbestos at regulated concentrations, they shall be handled, managed, and disposed of in accordance with applicable regulations regarding the handling, management, and disposal of asbestos containing materials, including but not limited to 310 C.M.R. 7.15; and

4. For facilities in Massachusetts, require that all items without proper certification under 310 C.M.R. 74.000 and 40 CFR 82, subpart F be rejected. Scale operators shall ensure that the appropriate certifications required under 40 CFR 82, subpart F are on-file and certifications required under 310 C.M.R. 74.000 are received with applicable loads. For facilities in other states, ensure that mercury containing switches and other devices are removed prior to shredding.

C. PNE shall ensure that items that are not acceptable as shredder feedstock are managed, handled and disposed of in accordance with all applicable laws.

D. PNE shall mail written notices of the acceptance and rejection policies described above to PNE's known suppliers of shredder feedstock annually, and no later than April 15th of each year. In addition, PNE shall require PNE's suppliers to certify biennially in writing that such suppliers have read and agree to abide by these policies. PNE shall provide new suppliers with such acceptance and rejection policies and receive written certification that such suppliers have read and agree to abide by these policies prior to accepting shredder feedstock from those new suppliers.

E. PNE shall post conspicuous signs at each of its facilities summarizing the acceptance and rejection policies described above.

F. PNE shall ensure that its affected employees are trained on PNE's SR/Scrap Management Plan and on the identification, handling, and management of materials as described in Section VI (B) above.

G. Within 90 days of acceptance of this Current BUD, PNE shall submit to the Department for Department approval, a Training Plan, including the names and qualifications of the persons conducting the training and all training materials, as set forth in Section VI (I)

below. In the event that PNE's plan is deemed insufficient by the Department, PNE shall retain a third party contractor approved by the Department who will develop a Training Plan that comports with all requirements set forth in the Consent Judgment entered into by the Commonwealth, MR and PNE.

H. Within forty-five (45) days of the Department's approval of the Training Plan, and annually thereafter, PNE shall provide training as required by the Training Plan to all current affected employees. All new affected employees shall receive training within thirty (30) days of date of hire, and annually thereafter. Affected employees shall include but not be limited to all inspectors, scale attendants and yard employees whose job assignments include regular handling of shredder feedstock.

I. Content of Training Plan: The Training Plan shall include at a minimum:

1. Training on compliance with all applicable conditions of the Current BUD and the 2015 CED;

2. Training on PNE's materials acceptance and rejection policies;

3. Identification of staff inspector positions, the function of which may cause the inspector to come into contact with asbestos containing material, and completion of asbestos awareness training as specified by the U.S. Occupational Safety and Health Administration ("OSHA") Additional instruction for such staff inspector positions shall include written policies and direction on proper handling and management of asbestos containing material ("ACM") found in shredder feedstock;

4. Information on how inspectors, as referred to above, will receive required annual refresher training;

5. Instruction regarding identification of PCB/Mercury/Refrigerant components in vehicles, white goods and other consumer or commercial goods and policy and procedures for the proper management and disposal of PCB/Mercury/refrigerant components potentially present in shredder feedstock. Employees shall be provided with necessary literature to identify items or components containing PCBs and instructed on how to manage items or components containing PCBs in accordance with 40 CFR 761 and 310 C.M.R. 30.000, items containing mercury in accordance with 310 C.M.R. 74.00, 310 C.M.R. 76.00 and 310 C.M.R. 30.000 as applicable and items containing refrigerants in accordance with 40 CFR 82, subpart F;

6. Instruction regarding identification of other items containing hazardous materials, and policy and procedures for the management and proper disposal of other hazardous material components potentially present in shredder feedstock;

7. Instruction regarding inspection of shredder feedstock including a process for determining compliance with the SR/Scrap Management Plan, including whether each in-coming load has adequate paperwork, pursuant to 310 C.M.R. 74.00 and 40 CFR 82, subpart F, certifying that mercury switches components and refrigerants have been removed; and

8. Instruction regarding proper handling of rejected loads or components. If the loads are remediated on site, the employees who perform this work shall be trained in the proper handling, and management of the components containing asbestos, PCBs, mercury, refrigerants, or other hazardous materials.

J. Staff persons receiving training on PNE's materials acceptance and rejection policies shall sign a written statement, or verify each year that attests to this fact.

K. PNE shall maintain records, including the signed verification described above, on site for five (5) years, and in a manner that is easily able to be produced to the Department, upon the Department's request.

VII. OPERATING AND HANDLING CONDITIONS

A. PNE shall manage Propat® and SR in accordance with the hierarchy of preferred waste management alternatives contained in the Commonwealth's Solid Waste Master Plan issued in April 2013. This hierarchy consists of Source Reduction, Recycling, and Disposal.

B. PNE shall follow all conditions contained in the 2015 CED for Propat® and SR and this Current BUD.

C. NFR containing recoverable non-ferrous metals may be transported to the PNE Everett Facility from the RI Site for recovery of non-ferrous metals in accordance with the respective CEDs and BUDs for PNE and MR. After metals recovery, sampling and analysis, handling, use, and disposal of Propat® and/or SR, shall be in accordance with the 2015 CED and this Current BUD.

D. All Propat® and/or SR generated or stored at the Everett Site must be generated and stored over a base of concrete or other surface acceptable to the Department, without cracks or gaps, and such production and storage areas must have a stormwater control system acceptable to the Department and designed to prevent migration of contaminants into the environment.

E. PNE shall store no more than 20,000 tons in total of Propat®, NFR and SR at any time and shall ensure that the Propat®, NFR and SR is removed from the site within one year of

generation unless the Department's Regional Office in the region where the Propat®, NFR and SR are stored grants a written increase in tonnage or extension in storage time. These limitations do not supersede any more stringent local, state or federal requirements.

F. Propat®, SR and NFR entering or leaving the Everett Site shall not contain free draining liquids.

G. All Propat® and/or SR entering or leaving the Everett Site, including NFR shipped to the PNE Everett Facility MR's RI Site, may be transported only in trucks or other means of transport which are covered and which will prevent the release of materials during transit and minimize emissions such as dust and/or odors. All such transport shall be evidenced by statements containing the name and signature of the transporter, truck identification, the name and signature of the accepting landfill, waste-to-energy facility, or other facility, the date of each signature and the dates of transport and acceptance, and the specific volume or weight of the material transported.

H. NFR shipped to the Everett Site from MR's RI Site must comply with the terms of the BUDs and CEDs issued for both facilities.

I. Any shipments of Propat®, SR or NFR classified as state or federal hazardous waste destined for or passing through Massachusetts shall comply with the management requirements of 310 C.M.R. 30.00 et seq.

J. The mixing of SR with CKD or Portland cement to create Propat® shall only occur at the PNE Everett Facility. PNE shall provide documentation that the CKD complies with 40 CFR 261.4(b) and 40 CFR 266.112 regarding use of hazardous waste as a fuel for producing cement.

K. For each delivery of shredder feedstock made to the PNE Everett Facility, PNE shall conduct inspections of the shipments for the materials identified in Section VI (B) above to ensure that the materials in the delivery are suitable as shredder feedstock.

L. PNE shall inspect all paperwork and certifications required pursuant to 310 C.M.R. 74.00 and 40 CFR 82, subpart F, and shall reject any load for which the paperwork does not meet the requirements of the regulations.

M. PNE shall not knowingly accept any motor vehicles, white goods, or other materials that contain items set forth in section VI (B) above, or have not had the fluids drained from such fluid containing items. In addition to inspections of in-coming materials, PNE shall conduct on-site inspections of accepted materials to ensure that materials comport with the written policies set forth above at Section VI and that in accordance with such policies,

hazardous materials identified by these inspections are removed from shredder feedstock prior to shredding.

N. Such inspectional program shall include, but not be limited to, the visual inspection of unbaled/uncrushed appliances such as refrigerators, freezers, air conditioners, microwave ovens, water heaters, washers and dryers (collectively, "white goods") prior to shredding to ensure that all PCB containing materials, including but not limited to capacitors and lighting ballasts, and mercury containing components, and refrigerants have been removed.

O. PNE shall at all times comply with the requirements of 310 C.M.R. 74.00, 310 C.M.R. 76.00, 40 CFR 82, subpart F, 40 CFR 761, and 310 C.M.R. 30.000.

P. PNE shall provide sufficient staff and resources to meet the requirements of section VII.

Q. PNE shall ensure that the activities at the PNE Everett Facility, including but not limited to processing, handling or use of shredder feedstock, recovered metals, Propat®, SR, or NFR, does not create a situation of odor, dust, or otherwise create nuisance conditions, including without limitation a condition of air pollution.

VIII. SAMPLING AND ANALYSIS

A. Propat® and/or SR must be sampled, processed, and analyzed as set forth herein and the Shredder Residue Sampling and Analysis Protocols attached hereto as Appendix A, incorporated herein (the *"Sampling and Analysis Protocols."*). No other protocol shall be used unless specifically approved in writing by the Department. If the *"Sampling and Analysis Protocols* are silent as to a specific sampling procedure, the Propat®/and/or SR shall be sampled using approved ASTM or other recognized sampling methods.

B. A qualified environmental professional shall perform all sampling.

C. All characterization shall be performed on representative samples of the final product destined for the receiving facility.

D. Propat® and SR shall be sampled and analyzed **bi-monthly (six times /yr)** for the following constituents:

1. **Total metals:** Lead, Cadmium, and Mercury. Where the total metal concentration in any sample is greater than 20 times the Toxicity Characteristic Rule standard, a Toxicity Characteristic Leaching Procedure analysis shall be performed to determine that the residuals are not a hazardous waste;
2. **Total PCBs; and**
3. **TPH.**

E. Propat® and SR shall be sampled and analyzed **annually** for the following constituents:

1. **Total metals** for the 13 Priority Pollutant Metals (arsenic, beryllium, cadmium, chromium, copper, lead, nickel, mercury, selenium, silver, thallium, tin, and zinc) and
2. **TCLP metals** for the 8 RCRA metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver).

F. PNE shall submit to the Department the results of all samplings and analyses conducted and collected pursuant to this section or any CED issued to PNE as expeditiously as is possible and in any event within forty-five (45) days after each sampling event. Such results shall be provided in a report which includes the lab report generated by the laboratory, the certification set forth in 310 C.M.R. 30.009, and a signature by a responsible corporate official.

IX. MATERIAL CONDITIONS

A. This Current BUD is valid only if the 2015 CED referenced in Section II remains in effect and all conditions within the 2015 CED are met.

B. Propat® and/or SR used as Alternative Daily Cover:

1. Propat® and/or SR used as Alternative Daily Cover must comply with all restrictions in the receiving facility's site assignment and operating permit, as well as any other permits or approvals regulating the facility. In the case of conflicting or overlapping provisions, the most restrictive shall apply.

2. Size: One hundred percent of Propat® and/or SR must be less than 2.0" nominal size. Ninety-five percent of all Propat®/SR shall pass a 1.5" screen. Larger fractions of Propat® and/or SR shall be disposed of in accordance with the 2015 CED and applicable federal, state and local laws.

3. Propat® and/or SR for use as daily cover shall not exceed the following Current BUD maximum contaminant levels

   a) **Total Petroleum Hydrocarbons** shall not exceed 5% by weight (50,000 mg/kg)
   b) **Total Lead** shall not exceed 3,000 mg/Kg
   c) **Total Cadmium** shall not exceed 80 mg/kg
   d) **Total Mercury** shall not exceed 10 mg/kg
   e) **Total PCBs** shall not exceed 50 mg/Kg
   f) **Total** arsenic shall not exceed 40 mg/kg

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g) **Total** chromium shall not exceed 1,000 mg/kg

X. MANAGEMENT OPTIONS

Management options for Propat® and/or SR are dependent on both the *rolling average concentration* for each of the regulated contaminants and the average concentrations in the current round of sampling. The *rolling average concentration* for a contaminant is the arithmetic average of the average concentrations obtained in the four most recent sampling rounds. (i.e. in each sampling round, the average concentration of a contaminant is calculated. The four most recent average concentrations are averaged to obtain the *rolling average concentration* for each contaminant). The *rolling average concentration* includes the results of the most recent sampling round and is calculated for each analyte required by the Current BUD and the 2015 CED.

A. Propat® and/or SR as Daily Cover

Propat® and/or SR that falls within the criteria contained in Section X (A)(1&2), below, may be used as daily cover, except as otherwise provided in this Current BUD. Propat® and/or SR that does not meet the conditions listed above must be managed as either solid or hazardous waste in accordance with this Current BUD, the 2015 CED and appropriate regulatory requirements.

1. If the rolling average concentration for each contaminant is:

   - less than 100% of its associated BUD maximum contaminant levels **and**
   - less than 100% of its associated TCLP hazardous waste levels,

   AND

   the average concentration for **each** contaminant in the most recent sampling round is:

   - less than 100% of its BUD maximum contaminant level, **and**
   - the Propat® and/or SR is not otherwise classified as hazardous waste, then

   the Propat® and/or SR may be used as daily cover without any additional sampling and analysis.

2. If the rolling average concentration for **each** contaminant is:

   - less than 100% of its associated maximum contaminant level **and**
   - less than 100% of its associated TCLP hazardous waste levels

   AND

the average concentration for **each** contaminant in the most recent sampling round is:

- less than 140% of its maximum contaminant level **and**
- less than 100% of its associated TCLP hazardous waste levels, then:

the Propat® and/or SR may be used as daily cover provided PNE complies with the following additional conditions:

a. PNE shall immediately, and in any event within twenty-four (24) hours of learning the results of such analysis, notify the Department of the sampling results and the steps which PNE will take to control the levels of contaminants detected in shredder residues produced at the site. PNE shall provide the Department with all applicable raw data and analytical results as soon as is practicable and in any event within seven (7) days of learning the results of such analysis.

b. PNE must increase the sampling frequency to monthly until the rolling average concentration for each contaminant is less than 100% of its associated BUD maximum contaminant levels and TCLP hazardous waste levels, AND the average concentration for each contaminant in the most recent sampling round is less than 100% of its maximum contaminant level and TCLP hazardous waste.

B. Propat® and/or SR as Solid Waste

1. If the rolling average concentration for **each** contaminant is:

- less than 100% of its associated maximum contaminant level, **and**
- less than 100% of its associated TCLP hazardous waste levels,

AND

- the average concentration for **any** contaminant in the most recent sampling round is greater than or equal to than 140% of its maximum contaminant level,

AND

- the average concentration for **each** contaminant in the most recent sampling round is less than 100% of its associated TCLP hazardous waste levels, then:

the Propat® and/or SR may be disposed of as solid waste provided PNE complies with the following additional conditions:

a. PNE shall immediately, and in any event within twenty-four (24) hours of learning the results of such analysis, notify the Department of the sampling results and the steps which PNE will take to control the levels of contaminants detected in shredder residues produced at the site. PNE shall provide the Department with all applicable raw data and analytical results as soon as is practicable and in any event within seven (7) days of learning the results of such analysis.

b. PNE must increase the sampling frequency to monthly until the rolling average concentration for each contaminant is less than 100% of its associated BUD maximum contaminant levels and TCLP hazardous waste levels, AND the average concentration for each contaminant in the most recent sampling round is less than 100% of its maximum contaminant level and TCLP hazardous waste levels.

2. If the rolling average concentration for **one or more** contaminants is greater than 100% of its associated BUD maximum contaminant level

AND

the rolling average concentration for **each** contaminant is less than 100% of its associated TCLP **hazardous** waste levels

AND

the average concentration for **each** contaminant in the **most** recent sampling round is less than 100% of its associated **TCLP** hazardous waste levels, then:

the Propat® and/or SR may be disposed of as solid waste provided PNE complies with the following additional conditions:

a. PNE shall immediately, and in any event within twenty-four (24) hours of learning the results of such analysis, notify the Department of the sampling results and the steps which PNE will take to control the levels of contaminants detected in shredder residues produced at the site. PNE shall provide the Department with all applicable raw data and analytical results as soon as is practicable and in any event within seven (7) days of days of learning the results of such analysis.

b. PNE must increase the sampling frequency to monthly and the SR may not be used as daily cover until the rolling average concentration for each contaminant is less than 100% of its associated BUD maximum contaminant levels and TCLP

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hazardous waste levels, AND the average concentration for each contaminant in the most recent sampling round is less than 100% of its maximum contaminant level and TCLP hazardous waste levels.

C. **Propat® and/or SR as Hazardous Waste**

1. **If the rolling average concentration for** one or more contaminants is greater than or equal to 100% of its TCLP hazardous waste levels, then PNE must comply with the following additional conditions:

   a. PNE shall immediately, and in any event within twenty-four (24) hours of learning the results of such analysis, notify the Department of the sampling results and the steps which PNE will take to control the levels of contaminants detected in shredder residues produced at the site. PNE shall provide the Department with all applicable raw data and analytical results as soon as is practicable and in any event within seven (7) days of days of learning the results of such analysis.

   b. PNE shall increase the sampling frequency to twice monthly and Propat® and/or SR must be managed as hazardous waste until the rolling average concentration for each contaminant is less than 100% of its TCLP hazardous waste levels, AND the average concentration for each contaminant in the most recent sampling round is less than 100% of its TCLP hazardous waste levels. The Propat® and/or SR may not be used as daily cover until the rolling average concentration for each contaminant is less than 100% of its associated BUD maximum contaminant levels and TCLP hazardous waste levels, AND the average concentration for each contaminant in the most recent sampling round is less than 100% of its maximum contaminant level and TCLP hazardous waste levels.

   c. If the rolling average concentration for a contaminant increases from less than 80% of the TCLP hazardous waste level to more than 100% of the TCLP hazardous waste level as the result of a single sampling round average greater than three times the applicable TCLP limit, PNE may submit additional information to the Department indicating that the results are not indicative of the actual concentrations, including analyses of the same composite sample, and may request that the value not be included in the rolling average concentration. PNE shall manage the Propat® and/or SR as hazardous waste until the Department makes a written determination that it may be managed differently.

Any material that is not exempt from classification as hazardous waste pursuant to

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the CED must be managed as hazardous waste and all material must be handled in compliance with all other federal, state and local laws, permits and approvals.

XI. LANDFILL CONDITIONS – Propat® and/or SR USED AS ALTERNATIVE DAILY COVER

A. This Current BUD applies only to Propat® and/or SR generated by PNE.

B. Propat® and/or SR shall be used as daily cover in Massachusetts only at composite lined landfills with leachate collection systems.

C. Any Massachusetts landfill intending to use Propat® and/or SR as daily cover shall notify the appropriate regional office of the Department in writing thirty (30) days prior to its use.

D. In addition to the conditions contained in this Current BUD, any use of Propat® and/or SR shall be subject to the provisions of the site assignment/ and or operating permit. In the case of conflicting or overlapping provisions, the most restrictive shall apply.

E. The landfill operator shall immediately take appropriate steps to abate any nuisance condition(s), including but not limited to, noise, dust and odor, resulting from activities associated with the use of Propat® and/or SR as alternative daily cover. The landfill operator shall notify the Department as soon as possible, but not later than forty-eight (48) hours after conditions of excess odor, dust, or other nuisance conditions occur as a result of the beneficial use of Propat® and/or SR.

F. Propat® and/or SR shall only be used on internal cells within the landfill. Propat® and/or SR shall not be used on external side slopes of the landfill.

G. Propat® and/or SR, when used by itself for daily cover, is limited to portions of the active area that will receive another lift of trash within 18 hours. If another lift of trash will not be placed within 18 hours, then one of the following options shall be used:

1. Apply six (6) inches of soil cover, or
2. Apply six (6) inches of a mixture of other non- Propat® and/or SR approved alternative daily cover material.

H. The daily quantity of Propat® and/or SR that may be used as daily cover at a landfill shall not exceed the quantity necessary to meet the performance standards for daily cover specified at 310 C.M.R. 19.130 (15). Any quantity used in excess of this amount is considered disposal.

I. A minimum of six (6) inches of compacted Propat® and/or SR is required as daily cover. The depth of compacted Propat®/SR shall not exceed twelve (12) inches. Any quantity used in excess of this amount is considered disposal.

J. The landfill owner/operator shall maintain accurate daily records of the amount, by weight, of Propat® and/or SR that is received by the landfill and the amount of Propat®/SR that is used as daily cover. These quantities shall be included in the facility's reports as specified in the operating permit.

K. A minimum quantity of daily cover material, other than Propat® and/or SR, sufficient for nine (9) working days of operation shall be stockpiled at the landfill or shall be readily available.

L. Propat® and/or SR shall only be stockpiled at the landfill next to the active area on lined portions of the site.

M. Landfills using Propat® and/or SR shall not stockpile more Propat® and/or SR than can reasonably be used as alternative daily cover in a five (5) day period.

N. Stockpiled Propat® and/or SR shall be properly controlled to prevent runoff and nuisance conditions.

XII.RECORD KEEPING AND REPORTING

A. PNE shall retain all records and copies of applications, reports, and other documents required by this determination at the Everett Site, and shall keep them readily available for inspection by the Department for a period of three (3) years beyond the final distribution of Propat® and/or SR for use as alternative daily cover.

B. Records retained shall include, but are not limited to, the following:

1. Training records described in Section VI;
2. Shipping records described in Section XII;
3. Daily operating records, including:
    a) Quantity (in tons) of NFR received at the facility and the source;
    b) Quantity (in tons) of Propat® and/or SR generated at the facility and the intended use;
    c) Quantity (in tons) of each shipment of Propat® and/or SR sent for disposal at landfills, including the date shipped, the receiving facility location
    d) Quantity (in tons) of each shipment of Propat® and/or SR sent for incineration,

including the date shipped, the receiving facility location

e) Quantity (in tons) of each shipment of Propat® and/or SR sent for use as daily cover, including the date shipped, the receiving facility location

C. Summary Reporting. No later than February 15 of each calendar year. PNE shall submit to the Department's Boston Office, Business Compliance Division, and the Northeast Regional Office, Solid Waste Section Chief, tabular summaries showing the following information for the prior calendar year:

D. Materials balance:

1. Total quantity (in tons) of NFR transported to the Everett Facility for non-ferrous metals recovery;
2. Total quantity (in tons) of scrap metal processed by the PNE Everett Facility;
3. Total quantity (in tons) of Propat® and/or SR stored at the PNE Everett Facility as of January 1;
4. Total quantity (in tons) of Propat® and/or SR generated at the Everett Site;
5. Total quantity (in tons) of Propat® and/or SR sent for disposal at landfills;
6. Total quantity (in tons) of Propat® and/or SR sent for waste-energy recovery;
7. Total quantity (in tons) of Propat® and/or SR sent for use as daily cover;
8. Total quantity (in tons) of Propat® and/or SR sent to TSDF's as hazardous waste;
9. Total quantity (in tons) of Propat® and/or SR sent to other locations or for other uses;
10. Grand Total quantity (in tons) of Propat® and/or SR shipped from the PNE Everett Facility; and
11. Total quantity (in tons) of Propat® and/or SR stored at the PNE Everett Facility as of December 31.

E. Facility Totals: The locations, amounts and use (daily cover, disposal, incineration, other) of all Propat® and/or SR shipped to solid waste or hazardous waste facilities in Massachusetts.

F. Sample Results: The results of all testing of the Propat® and/or SR required by this Current BUD.

G. Certification: The annual Summary Reporting shall include a certification by a corporate official that PNE has complied with the terms of this Current BUD.

H. Notices: When notice or submission of reports to the Department is either required or appropriate pursuant to the terms of this Current BUD, unless otherwise specified, such notice or submission shall be given by certified mail, return receipt requested, by nationally recognized overnight delivery service, or by hand delivery with a signed receipt, as follows:

<u>To the Boston Office</u>

ED_013190A_00000280-00060

Department of Environmental Protection
Bureau of Waste Prevention
One Winter Street
Boston, MA 02108
Attn: Deputy Division Director, Business Compliance Division

To the Northeast Regional Office

Department of Environmental Protection
Bureau of Waste Prevention
MassDEP Northeast Regional Office
205B Lowell Street
Wilmington, Massachusetts 01887
Attn: Solid Waste Section Chief

XIII. RIGHT OF APPEAL

In accordance with Paragraph 13 of the Consent Judgment entered in Suffolk Superior Court C.A. No. _____XXX, this Current BUD is final and not subject to appeal.

If you have any questions regarding this matter, please contact Thomas Adamczyk of the Business Compliance Division at (617) 574-6867.

Sincerely,

[NAME] Date: _____
Director
Business Compliance Division
Bureau of Waste Prevention

CC: Solid Waste Section Chiefs

EXHIBIT B

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection
One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK
Governor

RICHARD K. SULLIVAN JR.
Secretary

DAVID W. CASH
Commissioner

Conditional Exclusion Decision

Prolerized New England Company, L.L.C.

I. Background

The Department of Environmental Protection (the "Department") hereby issues this Conditional Exclusion Decision ("2015 CED") to Prolerized New England Company, L.L.C. ("PNE") pursuant to its authority under M.G.L. c.21C and 310 C.M.R. 30.141and 30.142

The Department issues this exclusion on an interim basis to prevent the release of hazardous wastes into the environment. The Department has studied the shredding industry and concluded the following:

A. Auto shredders typically receive end of life motor vehicles, flattened and unflattened from numerous suppliers. Such shredders also receive appliances and metal of various types from many different sources. These items are collectively referred to herein as "shredder feedstock".

B. The shredding of motor vehicles and other shredder feedstock can provide a valuable contribution by recycling materials that would otherwise become part of the waste stream.

C. Auto shredders engage in recycling operations by shredding shredder feedstock and producing shredded ferrous and non-ferrous metals. Ferrous and non-ferrous metals are recovered through a variety of extraction technologies and are used for the manufacture of new metals.

D. Non-ferrous Raw ("NFR") is the non-magnetic residual product which results from separation of ferrous metal immediately following the shredding process. NFR is a valuable product which contains various non-ferrous metals and non-metallic material.

E. Shredder residue ("SR"), primarily the non-metallic components of shredder feedstock, is a by-product of the removal of ferrous metal and non-ferrous metal from NFR by processing

This information is available in alternate format. Call Michelle Waters-Ekanem, Diversity Director, at 617-292-5751. TDD# 1-866-539-7622 or 1-617-574-6868
MassDEP Website: www.mass.gov/dep
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equipment located downstream from shredding operations. SR is a heterogeneous waste whose composition varies based on the composition of the shredder feedstock.

F. Processing of NFR may result in (i) a shredder residue product that can be used as a substitute for other materials used for alternative daily landfill cover and/or (ii) increased removal of metals and other recyclable materials.

G. Propat® is the patented and trademarked name given by PNE to a shredder residue product that is intended to be used as an alternative landfill cover material and is a sub-category of SR.

H. Reservoirs within motor vehicles and some white goods contain various amounts of gasoline and waste oil. Components of motor vehicles, appliances and other items used as shredder feedstock may contain other contaminants of concern, including but not limited to lead, mercury, cadmium and PCB's. These contaminants can be present in SR.

II. Parties

A. PNE owns and operates a shredding and metals recycling facility ("PNE Everett Facility") located at 69 Rover Street, Everett, Massachusetts (the "Everett Site"). The PNE Everett Facility includes a non-ferrous metals recovery plant that is capable of processing NFR to extract additional metals and recyclable materials.

B. Metals Recycling L.L.C. ("MR") is a Rhode Island Limited Liability Company that owns and operates a shredding and metals recycling facility located at 89 Celia Street, Johnston, R.I. (the "RI Site").

C. PNE and MR are wholly-owned subsidiaries of Schnitzer Steel Industries, Inc.

D. PNE has operated under a Conditional Classification Decision ("CDD"), originally issued by the Department on January 19, 1989, and recently amended on December 22, 2010. PNE has produced Propat® under a Beneficial Use Determination issued by the Department on February 28, 1994 (the "1994 BUD"). The non-ferrous metals recovery plant at the Everett Site processes NFR generated there and at the RI Site for the recovery of non-ferrous metals and the production of SR and/or Propat®. PNE has processed NFR from MR since 2010.

E. MR has operated under a CDD, originally issued by the Department on January 31, 2001, and which has subsequently been amended to the current CDD dated December 22, 2010. MR has produced Propat® and shipped NFR to the Everett Site under a Beneficial Use Determination issued by the Department dated November 17, 2000 (the "MR BUD").

III. Exclusion

Provided that PNE complies with the following conditions precedent, SR and Propat® generated at the PNE Everett Facility shall be conditionally excluded from regulation as Massachusetts regulated hazardous waste, pursuant to 310 C.M.R. 30.141(2).

A. This conditional exclusion shall apply only to:

1. SR and Propat® generated at the Everett Site by PNE;
2. SR generated from "motor vehicles" (including but not limited to automobiles and buses), "white goods" (including but not limited to appliances such as refrigerators, freezers, air conditioners, microwave ovens, water heaters, washers and dryers) and scrap light iron.

B. This conditional exclusion specifically does not apply to:

1. Shredding processes differing from those employed at the Site as of the date of this 2015 CED, unless otherwise approved by the Department in writing;
2. Shredder feed stock materially differing from that used at the Site as of the date of this 2015 CED unless otherwise approved by the Department in writing;
3. SR and NFR generated at locations other than the Everett Site unless it is the subject of its own CED issued pursuant to 310 C.M.R. 30.141 and 30.142, and BUD issued pursuant to 310 CMR 19.060;
4. SR generated at the Everett Site by any entity other than PNE; and
5. Any activities which may be conducted at the Everett Site other than the generation, treatment, storage, transport, use, disposal and management of SR which is produced at the Everett Site.

This CED does not exclude NFR, SR, Propat® or operations at the Site from any other applicable federal, state or local laws, regulations, or requirements.

IV. Sampling Protocols and Frequency

A. PNE shall sample SR generated at the Everett Site (if any) and shall separately sample Propat® produced at the Everett Site (if any) bimonthly (every other month) and shall analyze such samples for PCBs, and Total Petroleum Hydrocarbons (TPH) in accordance with the *Shredder Residue Sampling and Analysis Protocols* (Appendix A attached hereto). PNE shall have such samples analyzed as expeditiously as possible and in any event within ten (10) days of the date

on which the samples are taken. No such sampling and analysis shall be required for any bi-monthly period in its entirety in which PNE does not operate its shredder.

B. PNE shall sample SR and Propat® after all processing has been completed. Propat® and other SR destined for landfills shall be analyzed after all metals recovery and size reduction has been completed and in accordance with the BUD dated _____, __, 2015, and any subsequent revisions ("2015 BUD"), issued by the Department pursuant to 310 CMR 19.060, attached hereto, and incorporated by reference herein.

C. PNE shall submit to the Department the results of all samplings and analyses conducted and collected pursuant to this section or any BUD issued to PNE as expeditiously as is possible and in any event within forty-five (45) days after each sampling event. Such results shall be provided in a report which includes the lab report generated by the laboratory, the certification set forth in 310 C.M.R. 30.009, and a signature by a responsible corporate official. The results of any specific sampling round collected and analyzed as required by this conditional exclusion shall be deemed conclusive for purposes of this conditional exclusion and any enforcement actions or proceedings brought by the Department against PNE.

D. If at any time PNE is unable to comply with the time deadlines provided in this section, PNE shall notify the Department official listed as a contact in Section IX, below, by e-mail or telephone, within twenty-four (24) hours of the expiration of such deadline or by the next weekday, whichever is later and with a written follow-up by certified mail within 7 days. The notifications shall provide an explanation of the delay and an anticipated timeframe for the completion of the necessary activities. Mere notification, explanation and provision of a timeframe shall not excuse any delay.

E. Sampling shall be conducted using contemporaneous generation procedures unless otherwise indicated herein or approved in writing by the Department.

F. The Department may sample and analyze NFR, SR and Propat® at the Everett Site, or after it has been shipped off the Everett Site, at any time and in accordance with the *Shredder Residue Sampling and Analysis Protocols* (Appendix A attached hereto) using either pile sampling procedures or contemporaneous generation procedures. PNE agrees to provide reasonable assistance to the Department in collecting such samples. PNE may collect duplicate samples. In the event that samples from NFR, SR, or Propat® piles cannot be procured by the Department in the manner set forth in the *Auto Shredder Sampling and Analysis Protocols*, the Department will sample in accordance with "TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS," EPA PUBLICATION SW-846 AS REFERENCED IN 40 CFR SECTION 260.11(C)(3).

V. Management Programs

To ensure that SR generated on at the Everett Site does not exceed the concentration limits set forth in Section VII (A), below, or other relevant hazardous waste thresholds, PNE shall institute, at a minimum, the following management programs and sampling regimens:

A. Acceptance and Rejection Policies

1. PNE shall develop and implement written policies for the acceptance and rejection of materials which may cause SR produced at the Everett Site to exceed the maximum contamination levels set forth in Section VII, below, or might otherwise cause SR to exceed other relevant hazardous waste thresholds, including but not limited to, oil, lead, cadmium, mercury or PCBs. Acceptance and rejection policies shall, at a minimum, (a) require that items which may cause SR produced at the Everett Site to exceed the maximum contamination levels set forth in Section VII (A), below, or other relevant hazardous waste thresholds, be removed or drained of fluids. These items include, but are not limited to, automobile components such as batteries, gas tanks, oil filters and crankcases, as well as mercury switches and other mercury containing devices, PCB containing items, including but not limited to capacitors and lighting ballasts; and (b) require that all items without proper certification under 310 C.M.R. 74.00 be rejected or managed in compliance with 310 C.M.R. 74.00.

2. PNE shall ensure that items that are not acceptable as shredder feedstock are either rejected or are handled properly at the Site and in accordance with all applicable laws.

3. PNE shall mail written notices of acceptance and rejection policies to known suppliers of shredder feedstock to the Everett Site annually, no later than April 15th of each year. In addition, PNE will require known suppliers of shredder feedstock to biennially certify in writing that they have read and agree to abide by these policies. PNE shall provide new suppliers with acceptance and rejection policies prior to accepting shredder feedstock from those new suppliers.

4. PNE shall post signs summarizing its acceptance and rejection policies conspicuously at the Everett Site.

5. PNE shall not accept motor vehicles or white goods that have not had the fluids drained or that contain components, set forth above, which may cause SR produced at the Everett Site to exceed the maximum contamination levels set forth in Section VII (A), below, or other relevant hazardous waste thresholds unless PNE removes the components or drains the fluids prior to shredding.

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B. Training

1. PNE shall train all inspectors, scale attendants, yard employees whose job assignments include handling of shredder feedstock, and any other employees who may be responsible for environmental compliance (collectively "affected employees") to (a) inspect and evaluate shredder feedstock and identify the components or items containing the components which may cause SR produced at the Everett Site to exceed the maximum contamination levels set forth in Section VII (A), below, *or* other relevant hazardous waste thresholds and (b) either remove such components from shredder feedstock or reject the items containing such components prior to shredding. New employees shall be trained within 30 days of hiring

2. Content of training: PNE shall submit a training plan with training material to the Department for approval within 90 days of receiving this 2015 CED. The training shall include at a minimum:

   a. Instruction on how to comply with all applicable conditions of this 2015 CED;

   b. Instruction on implementation of PNE's materials acceptance and rejection policies;

   c. Instruction on proper identification and management of PCB/Mercury/Refrigerant components in vehicles, white goods and other consumer or commercial goods that may be found in shredder feedstock. (Items or components containing PCBs shall be managed in accordance with 40 CFR 761 and 310 C.M.R. 30.000. Items containing mercury shall be managed in accordance with 310 C.M.R. 74.00, 310 C.M.R. 76.00 and 310 C.M.R. 30.000 as applicable. Items containing refrigerants shall be managed in accordance with 40 CFR 82, subpart F);

   d. Instruction regarding identification of other items containing hazardous materials and policy and procedures for the management of other hazardous material components potentially present in shredder feedstock;

   e. Instruction regarding inspection of shredder feedstock, including a process for determining compliance with the Everett Site's SR/Scrap Management Plan, 310 C.M.R. 74.00 and 40 CFR 82, subpart F, certifying that mercury switches components and refrigerants have been removed; and

   f. Instruction regarding proper handling of rejected loads or components. If the loads are remediated on-site, then employees who perform this work shall be trained in the proper handling, and management of the components containing, PCBs, mercury, refrigerants, or other hazardous materials.

3. Documentation of training: PNE shall maintain records on Everett Site for five (5) years verifying employees have been trained in accordance with the Department approved

training plan. Such records must be immediately available for Department inspection upon written or oral request.

VI. Inspections

A. PNE shall inspect each delivery for the materials identified in Section V(a), above, to ensure that the materials in the delivery are suitable as shredder feedstock. PNE shall not accept motor vehicles or white goods that contain components set forth above or have not had the fluids drained from fluid containing items, which may cause SR generated at the Everett Site to exceed the maximum contamination levels set forth in Paragraph VII (A), below, or other relevant hazardous waste thresholds unless PNE removes the components or drains the fluids prior to shredding. PNE shall verify supplier certificates are on file and shall inspect all paperwork and certifications required pursuant to 310 C.M.R. 74.00, and shall reject any load for which the paperwork does not meet the requirements of the regulations.

B. PNE shall conduct on-site inspections to ensure that materials which may cause SR produced at the Everett Site to exceed the maximum contamination levels set forth in Section VII (A) below, or other relevant hazardous waste thresholds, are removed from shredder feedstock prior to shredding. Such inspectional program shall include, but not be limited to, the visual inspection of un-crushed or un-baled appliances such as refrigerators, freezers, air conditioners, microwave ovens, water heaters, washers and dryers (collectively, "white goods") and the external faces of crushed or baled white goods prior to shredding to ensure that PCB containing materials, including but not limited to, capacitors and lighting ballasts, have been removed. PNE shall comply with the requirements of 310 C.M.R. 74.00. PNE shall provide sufficient staff and resources to meet these requirements.

C. PNE shall, for each day of operation, maintain records of the inspections referred to in this 2015 CED. Such records shall include the personnel assigned to conduct the inspections, the daily tonnage of shredder feedstock received, and the number of white goods in which PCB capacitors or lighting ballasts are found and the suppliers of such white goods. PNE shall retain such records for five (5) years.

D. For each load that is rejected, PNE shall keep records identifying the source of the load and the reason for the rejection. PNE shall retain such records for a minimum of five (5) years

VII. Analyses Which Exceed CED Maximum Contamination Levels

A. CED Maximum Contaminant Levels

1. **Total Petroleum Hydrocarbons** shall not exceed 5% by weight (50,000 mg/kg).
2. **Total PCBs** shall not exceed 50 mg/kg.

B. **Minor Exceedance of TPH limits:** If any analysis of SR conducted in accordance with the procedures established in this 2015 CED or the 2015 BUD shows an average concentration of TPH for single round of sampling greater than 50,000 parts per million (5%) but less than 70,000 parts per million (7%) by weight PNE shall, at a minimum, implement the following management programs:

1. PNE shall immediately, and in any event within twenty-four (24) hours of the earlier of obtaining notice of or receiving the results of such analysis, notify the Department of the sampling results and the steps which PNE will take to control the levels of contaminants detected in SR produced at the Everett Site. PNE shall provide the Department with all applicable raw data and analytical results as soon as is practicable and in any event within seven (7) days of notifying the Department of the results.

2. Within thirty-five (35) days of the earliest date on which PNE obtained notice of or received the results of the sampling analysis which indicates elevated TPH levels, PNE shall conduct an additional sampling of SR generated at the Everett Site and shall analyze such samples for TPH in accordance with the protocol attached hereto. PNE shall have such samples analyzed as expeditiously as is possible and in any event within forty-five (45) days of the date on which such samples are taken and shall submit the results of such analysis to the Department within 24 hours of the earlier of obtaining notice of or receiving the results of such analyses.

3. PNE shall conduct two additional rounds of sampling and analyzing the SR generated at the Everett Site over the next approximately 60 days, the first within thirty-five (35) days from the previous sampling round, and the second within thirty-five (35) days from the first additional round. PNE shall have such samples analyzed as expeditiously as is possible and in any event within forty-five (45) days of the date on which such samples are taken and shall submit the results of such analysis to the Department within 24 hours of the earlier of obtaining notice of or receiving the results of such analyses.

4. If PNE is required to implement a more frequent or longer schedule for sampling and analysis as a result of some other provision of this 2015 CED (such as the requirements of Section VII (d)) PNE shall adhere to that schedule.

C. **Minor Exceedance of PCB limits:** If any analysis of SR conducted in accordance with the procedures established in this 2015 CED or the 2015 BUD shows an average concentration of PCB's for single round of sampling greater than 50 parts per million but less than 75 parts per million by weight, PNE shall, at a minimum, implement the following management programs:

1. PNE shall immediately, and in any event within twenty-four (24) hours of the earlier of obtaining notice of or receiving the results of such analysis, notify the Department of the

sampling results and the steps which PNE will take to control the levels of contaminants detected in SR produced at the Site. PNE shall provide the Department with all applicable raw data and analytical results as soon as is practicable and in any event within seven (7) days of notifying the Department of the results.

2. Within thirty-five (35) days of the earliest date on which PNE obtained notice of or received the results of the sampling analysis which indicates elevated PCB levels, PNE shall conduct an additional sampling of SR generated at the Everett Site and shall analyze such samples for PCBs in accordance with the protocol attached hereto. PNE shall have such samples analyzed as expeditiously as is possible and in any event within forty-five (45) days of the date on which such samples are taken and shall submit the results of such analysis to the Department within 24 hours of the earlier of obtaining notice of or receiving the results of such analyses.

3. PNE shall conduct five additional rounds of sampling and analyzing the SR generated at the Everett Site over the next approximate 180 days, the first within thirty-five (35) days from the previous sampling round, each subsequent round within thirty-five (35) days from the preceding. PNE shall have such samples analyzed as expeditiously as is possible and in any event within forty-five (45) days of the date on which such samples are taken and shall submit the results of such analysis to the Department within 24 hours of the earlier of obtaining notice of or receiving the results of such analyses.

4. If PNE is required to implement a more frequent or longer schedule for sampling and analysis as a result of some other provision of this 2015 CED (such as the requirements of Section VII (D)) PNE shall adhere to that schedule.

D. Other Exceedance of TPH, PCB or TCLP limits: If any analysis from the sampling events required pursuant to Section VII (B) or (C) indicate an average constituent concentration which exceeds the CED Maximum Contaminant Levels contained in section VII (A); or any analysis from the sampling events required pursuant to this 2015 CED, the 2015 BUD, or any other sampling events conducted on SR generated at the Everett Site in accordance with the procedures established in this conditional exclusion decision shows:

1. an average concentration of PCBs or TPH greater than the minor exceedance levels established in Section VII (B) or (C), or

2. an average constituent concentration which exceeds the applicable TCLP limits, or

3. otherwise indicates that SR should be classified as hazardous waste,

then PNE shall implement the following:

a. PNE shall immediately, and in any event within twenty-four (24) hours of the earlier of obtaining notice of or receiving the results of such analysis, notify the Department of the sampling results and the steps which PNE will take to control the levels of contaminants detected in SR produced at the Everett Site. PNE shall provide the Department with all applicable raw data and analytical results as soon as is practicable and in any event within seven (7) days of notifying the Department of the results.

b. PNE shall immediately, and without any delay, commence to treat, store, transport, use, dispose of and otherwise manage as hazardous waste both the SR existing at the site and any SR thereafter generated at the Everett Site.

c. Such management practices must remain in place until and unless the Department determines in writing that PNE's management and production processes have been modified sufficiently to prevent the creation of SR which exceeds applicable federal or state TCLP, PCB, TPH or other standards for classification of materials as hazardous wastes.

d. Individual piles of SR may be managed as solid waste once PNE has sampled the individual piles in accordance with 40 CFR 761.347 as contained in 40 CFR 761, Subpart R ("*Sampling Non-Liquid, Non-Metal PCB Bulk Product Waste for Purposes of Characterization for PCB Disposal in Accordance With §761.62, and Sampling PCB Remediation Waste Destined for Off-Site Disposal, in Accordance With § 761.61*"), as published in 63 FR 35469, June 29, 1998, as amended at 64 FR 33762, June 24, 1999 and sub sampled and analyzed the material in accordance with the attached *Shredder Residue Sampling and Analysis Protocols*, and determined that the concentration of PCB's and TPH in the waste do not exceed the CED Maximum Contaminant Levels, applicable federal or state TCLP limits, or other standards for classification of materials as hazardous wastes.

e. Unless otherwise agreed to by the Department, PNE shall continue to manage the SR or Propat® as hazardous waste until PNE obtains sample results from biweekly (every two weeks) testing of newly generated SR for a period of three (3) consecutive months which do not exceed the CED Maximum Contaminant Levels, applicable federal or state TCLP limits, or other standards for classification of materials as hazardous wastes.

f. In the alternative, PNE shall immediately, and without any delay whatsoever, cease shredding operations until such time as PNE and the Department may agree in writing upon revised operating procedures, management practices, quality assurance testing and/or sampling and analysis protocols and frequencies to ensure that SR will not exceed applicable federal and state TCLP, PCB, TPH or other standards for classification of materials as hazardous wastes

VIII. Operations

PNE shall comply with each of the following conditions:

A. All SR and Propat® at the Everett Site must be generated and stored over a base of concrete or other impermeable surface acceptable to the Department, without cracks or gaps, and such production and storage areas must have a stormwater control system acceptable to the Department and designed to prevent migration of contaminants into the environment. PNE must at all times comply with the provisions of its Stormwater Pollution Prevention Plan ("SWPPP").

B. PNE shall store no more than 20,000 tons in total of Propat®, NFR and SR at any time and shall ensure that the Propat®, NFR and SR is removed from the Everett Site within one year of generation, unless the Department's Regional Office in the region where the Propat®, NFR and/or SR are stored grants a written increase in tonnage or an extension in storage time. These limitations do not supersede any more stringent local, state or federal requirements.

C. All non-hazardous waste SR and Propat® transported from the Everett Site into or through Massachusetts may be transported only in trucks or by other means of transport (i) which will prevent the release of free flowing liquids and (ii) with covers which will prevent the release of materials during transit. All such transport shall be evidenced by a standard Bill of Lading which includes statements containing the name and signature of the transporter, the name and signature of the accepting landfill, waste-to-energy facility, or PNE facility, the date of each signature and the dates of transport and acceptance, and the specific volume or weight of the material transported. Such statements shall be kept on file at the Site and shall be made available to the Department upon request. PNE shall retain such records for ten (10) years or until the Department approves disposal, whichever is shorter, and PNE shall provide the Department with thirty (30) days notice prior to disposal if Department approval has not been obtained after ten (10) years. Any shipments of SR or Propat® classified as state or federal hazardous waste destined for or passing through Massachusetts shall comply with the management requirements of 310 C.M.R. 30.000 et seq.

D. PNE shall manage SR in accordance with the hierarchy of preferred waste management alternatives contained in the Commonwealth's Solid Waste Master Plan issued in December 2000 and updated in June 2006. This hierarchy consists of Source Reduction, Recycling, and Disposal.

E. No less than forty-five (45) days prior to the expiration of this exclusion, PNE shall submit to the Department a report describing all efforts undertaken to enhance the recovery of recyclable materials and to reduce the volume and toxicity of the material disposed of in landfills.

F. All SR transported from the Everett Site is regulated as solid waste and may be disposed of only at (i) landfills located in the Commonwealth of Massachusetts properly assigned and with liners and leachate collection systems approved by the Department, (ii) waste-to-energy facilities located in the Commonwealth of Massachusetts having received the appropriate air quality permits and approvals from the Department or (iii) appropriately licensed hazardous waste treatment, storage or disposal facilities or at (iv) such other facilities or by such other methods as may be approved in writing by the Department.

G. Propat® and SR generated at the Everett Site may be used as alternative daily cover at properly assigned landfills located in the Commonwealth of Massachusetts with composite liners and leachate collection systems approved by the Department, but only when done so in accordance with the waste control requirements as contained in the 2014 BUD and any subsequent revisions and all relevant conditions of the landfill's approval.

H. NFR from the RI Site containing recoverable non-ferrous metals and which is conditionally exempt pursuant to the Department's CED issued to MR dated _____ __, 2015 (and any subsequent revisions) and for which MR has a BUD, dated _____ (and any subsequent revisions) may be transported to the PNE Everett Facility for recovery of non-ferrous metals in accordance with the waste control requirements contained in the respective BUDs and CEDs issued to PNE and MR and any subsequent revisions. After metals recovery, sampling, and analysis; disposal of SR and use of Propat®, shall be in accordance with the 2015 CED and 2014 BUD.

I. PNE shall provide a report to the Department, by January 31 of each year, of the amount of SR and Propat® generated at the Everett Site during the prior calendar year. The report shall provide the amount (tonnage) NFR transported to PNE for non-ferrous metals recovery, of SR and of Propat® delivered to Massachusetts landfills, incinerator facilities, hazardous waste facilities, or other facilities approved by the Department, as well as the tonnage which was disposed of or beneficially used at each facility.

J. PNE shall ensure that the processing, handling, storage or use of Propat®, SR, or NFR, does not create a situation of odor, dust, or otherwise create nuisance conditions, including without limitation a condition of air pollution.

IX. Notices

Unless otherwise specified, when notice or submission of reports to the Department is either required or appropriate pursuant to the terms of this 2015 CED, such notice or submission shall be given by certified mail, return receipt requested, by nationally recognized overnight delivery service, or by hand delivery with a signed receipt, as follows:

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Department of Environmental Protection
Bureau of Waste Prevention
One Winter Street
Boston, MA 02108
Attn: Dikran Kaligian

and to:

Department of Environmental Protection
Northeast Regional Office
Bureau of Waste Prevention
205B Lowell Street
Wilmington, MA 01887
Attn: Hazardous Waste Section Chief

X. **Conditional Exclusion**

This exclusion is conditioned upon PNE's compliance with all of the terms set forth herein. Any violation of the terms or conditions of this 2015 CED, or in the Appendix A *Shredder Residue Sampling and Analysis Protocols*, is a violation of 310 C.M.R. 30.141, and will result in Propat®/SR being regulated as hazardous waste.

Notwithstanding anything to the contrary set forth herein, the Department may amend or revoke the 2015 CED for the following reasons:

A. If the Department determines PNE has failed to comply with the terms of this 2015 CED, including the Appendix A *Shredder* Residue *Sampling and Analysis Protocols*; or

B. If the Department or the United States Environmental Protection Agency should adopt standards or requirements which are additional to, or more stringent than, the standards or requirements set forth herein; or

C. If either the United States Environmental Protection Agency or the Department determines that additional or alternative measures may be adopted to reduce contaminant levels in SR or that are more stringent and more protective to public health, safety, and welfare of the environment; or

D. If the Department determines that SR treated in the manner set forth herein:

   1. is in non-compliance with any applicable statute or regulation, either presently existing or hereinafter enacted;

   2. may cause, or significantly contribute to, an increase in serious irreversible, or incapacitating reversible illness; or

3. may pose a substantial present or potential hazard to human health, safety, or welfare or to the environment.

Should the Department amend or revoke this 2015 CED, the Department will provide PNE with a written notice of such amendment or revocation. The Department and PNE shall promptly meet to discuss alternatives to address the reasons for such amendment or revocation.

XI. Term of Conditional Exclusion

This 2015 CED becomes effective when signed by the Department and shall remain in effect for five years unless amended or revoked. This 2015 CED replaces all previous CDDs and all previous amendments, and shall be deemed to be the CED referred to in the Department's 2015 BUD dated _____, 2015. After June 30, 2020, the terms of the 2015 CED shall be null and void and shall have no further effect.

XII. Limitations

Nothing contained in this 2015 CED shall release or absolve PNE from liability to the Commonwealth of Massachusetts or any other party should any SR generated at the Everett Site cause any hazard or injury to human health, safety, or welfare or to the environment.

XIII. Appeal Rights

In accordance with Paragraph 13 of the Consent Judgment entered in Suffolk Superior Court C.A. No. _____, this 2015 CED is final and not subject to appeal.

Department of Environmental Protection

By: _____ Date: _____

XXXXXX, Director
Business Compliance Division
Bureau of Waste Prevention

Agreed and Consented To:

Prolerized New England Company, L.L.C.

By its duly authorized representative, Date:_____

_____

Michael C. Henderson, President
Joint Venture Operations, Inc.
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EXHIBIT C

SHREDDER RESIDUE (SR) SAMPLING AND ANALYSIS PROTOCOLS

Summary

Eight (8) composite samples shall be collected bimonthly (six times per year) in accordance with the procedures in 40 CFR 761, Subpart R, and each shall be analyzed for total polychlorinated biphenyls (PCBs), total lead, total cadmium, total mercury, toxicity characteristic leaching procedure (TCLP) lead, TCLP cadmium, TCLP mercury, and total petroleum hydrocarbons (TPH) in accordance with the applicable Conditional Exclusion Decision and Beneficial Use Determination. In addition, at least once annually, the eight (8) composite samples shall each be analyzed for the remainder of the 13 Priority Pollutant metals (total metal analysis – antimony, arsenic, beryllium, chromium, copper, nickel, selenium, silver, thallium, zinc) and for the remainder of the 8 Resource Conservation and Recovery Act (RCRA) metals (TCLP metal analysis – arsenic, barium, cadmium, selenium, silver).

Samples shall be collected and sub sampled in accordance with the procedures contained in 40 CFR 761, Subpart R (*"Sampling Non-Liquid, Non-Metal PCB Bulk Product Waste for Purposes of Characterization for PCB Disposal in Accordance With §761.62, and Sampling PCB Remediation Waste Destined for Off-Site Disposal, in Accordance With § 761.61"*), as published in 63 FR 35469, June 29, 1998, as amended at 64 FR 33762, June 24, 1999 unless otherwise noted. Sampling involves three levels, as detailed in 40 CFR 761.346.

All sampling and sub-sampling conducted under this protocol shall be done using appropriate sample collection devices and/or tools ensuring that a whole sample or whole sub-sample is collected. "Hand-grabbing" or "hand-selecting" of Shredder Residue (SR) material to be sampled or sub-sampled shall be avoided.

Samples shall be prepared for analysis and analyzed in accordance with the listed U.S. EPA SW-846 methods (*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*), and the Massachusetts Department of Environmental Protection's *Compendium of Quality Control Requirements and Performance Standards for Selected Analytical Protocols* (WSC #10-320; effective July 1, 2010)

(http://www.mass.gov/eea/agencies/massdep/cleanup/regulations/wsc10-320-compendium--quality-control-reqs.html#8), where applicable.

Continuity of the chain of custody shall be maintained from the site of generation to the analytical laboratory.

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I. LEVEL I Sample Collection at the Site of Generation

Eight first-level samples are collected in a pre-cleaned 5-gallon (19-liter) plastic container at the site of generation as specified in 40 CFR 761.348, for contemporaneous sampling, subject to the following modification:

For contemporaneous sampling, 40 CFR 761.348(a) is modified so that each contemporaneous sample shall be collected as a cross section of the process waste stream prior to accumulation in a pile and 40 CFR 761.348(c) is modified so that samples shall be collected at 10-minute intervals during contemporaneous generation of SR .

Two composite samples are generated at the site of generation by mixing and sub-sampling the eight (8) first-level samples in a pre-cleaned 55-gallon drum, in accordance with 40 CFR 761.350.

To obtain two composite samples, 40 CFR 761.350 (b)(1) is modified so that two 19 liter piles are randomly selected, using a random number generator or random number table. 40 CFR 761.350 (b)(2) is modified so that two quarters are selected using a random number generator or random number table, each selected quarter is subdivided into 19 liter portions and one 19 liter portion is selected from each quarter using a random number generator or random number table from which the samples are taken.

Level I Sampling shall be performed by a competent environmental consultant or professional engineer trained and experienced in environmental waste sample collection methods or by employees of the facility trained and directly supervised by a competent environmental consultant or engineer trained and experienced in environmental waste sample collection methods.

This procedure shall be repeated for a total of 4 rounds until a total of eight 19 liter composite samples have been obtained.

The eight 19 liter composite samples may be sub-sampled pursuant to 40 CFR 761.353 (a) at the site of generation, provided that the sub-sampling shall be conducted under the supervision of a competent environmental consultant or professional engineer trained and experienced in environmental waste sample collection methods and the environmental consultant or professional engineer.

The eight 19 liter composite samples or, if sub-sampled at the site of generation, eight 4.75 liter composite samples, shall be:

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(1) submitted by chain of custody to a competent environmental consultant or professional engineer trained and experienced in environmental waste sample collection methods for the second level of sample selection (if necessary) and size reduction in accordance with 40 CFR 761.353(a)&(b). If an environmental consultant or professional engineer is selected for the second level of sample selection, the consultant or professional engineer shall, in accordance with this protocol, submit the Level II sub-samples to the selected accredited laboratory for all subsequent sub-sampling, extraction and analysis required by this protocol, OR

(2) submitted by chain of custody to the analytical laboratory for the second level of sample selection (if necessary) and size reduction in accordance with 40 CFR 761.353 and third level of sample selection in accordance with 40 CFR 761.355. If a laboratory is selected for second and third level of sample selection, the laboratory shall, in accordance with this protocol, also perform all subsequent sample preparation, extraction, and all analyses required by this protocol.

The laboratory shall be accredited under the National Environmental Laboratory Accreditation Program (NELAP) or by the laboratory's resident state for the SW-846 analytical methods used.

II. LEVEL II Sub-sampling

Level II sub-sampling consists of two steps: sub-sampling the composite samples obtained at the site in accordance with 40 CFR 761.353 (a) and reduction of the particle size in accordance with 40 CFR 761.353 (b).

Level II SR processing pursuant to 40 CFR 761.353 (a)&(b) shall be conducted under the supervision of a competent environmental consultant or professional engineer trained and experienced in environmental waste sample collection methods or competent lab personnel at the analytical laboratory.

Each 19 liter composite sample is sub-sampled and reduced in size to pass through a 9.5-mm screen in accordance with 40 CFR 761.353, subject to the following modifications:

40 CFR 761.353 (b) is modified so that mechanical grinding is the only acceptable method to achieve particle size reduction of the material in order to pass through the 9.5-mm screen. Waste material that cannot be size reduced by grinding (such as rocks, stainless steel, and other

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solid metal fragments) may be excluded from the size-reduced subsample, as long as it does not exceed 10% by volume of the selected subsample.

If the total of excluded waste material that cannot be size-reduced by grinding (material removed prior to grinding and after grinding) exceeds 10% by volume of the selected subsample, then all the waste material shall be remixed with the first-level composite sample and the sub-sampling of the composite sample shall be repeated in accordance with 761.353(a).

The analytical laboratory selected for sub-sample analysis in accordance with this protocol shall perform all subsequent sample preparation (such as drying PCB samples to determine moisture content), extraction, and all analyses required by this protocol.

Each of the eight 4.75 liter size reduced composite samples shall be sent under chain of custody to the analytical laboratory for Level III sub-sampling and analysis, accompanied by a written statement prepared, reviewed, signed and stamped by a professional engineer describing the methods used to ensure representative SR samples were prepared for analytical laboratory analysis and certifying that the methods and procedures used conform with this protocol and 40 CFR 461, subpart R.

III. LEVEL III Sub-sampling

Each of the eight 4.75 liter size reduced composite samples is further sub-sampled to a size suitable for the chemical extraction and analysis in accordance with 40 CFR 761.355, subject to the following modification:

40 CFR 761.355 is modified to eliminate Subsection (c), drying the reduced particle size waste, for TPH analysis.

After completion of the third level of sample selection to reduce the size of the subsample to 100 grams for PCB analysis in accordance with 761.355, the second level subsample shall be recombined and mixed according to 761.353(d). The third level of sample selection shall be repeated to reduce the size of the sample for the additional analyses. This recombination procedure shall be repeated to obtain each subsample for analysis. The subsample sizes (wet weight) for each analysis to ensure sufficient materials for re-testing and quality control procedures are as follow:

[50] grams for total metals analysis

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[500] grams for TCLP and alkalinity analyses as required by EPA SW-846 Method 1311 for TCLP
[50] grams for TPH analysis

IV. Sub-sample Analysis

Each subsample shall be analyzed according to the following schedule and using the designated methods of extraction and analysis. PCB samples shall be analyzed "dry" per 40 CFR 761.353(c) / 761.355(c). PCB analytical results shall be reported on a dry-weight basis along with the % moisture.

a. Bi-monthly:

i. Total PCB Analysis:

The PCB subsample shall be extracted in accordance with one of the following EPA SW-846 Methods: 3540C, 3541, or 3545A. The PCB subsample extract shall be analyzed in accordance with EPA SW-846 Method 8082A.

ii. Total Metals: Lead, Cadmium, and Mercury

The total lead & cadmium subsample shall be acid digested using EPA SW-846 Method 3050B or 3051A. The digested subsample shall then be analyzed in accordance with EPA SW-846 Method 6010C. The total mercury subsample shall be analyzed in accordance with EPA SW-846 Method 7471B or 7473.

iii. TCLP Metals: Lead, Cadmium, and Mercury

If the total metal concentration in any bi-monthly sample for lead, cadmium, or mercury is greater than 20 times the Toxic Characteristic Rule standard, a TCLP analysis shall be conducted for that metal. The TCLP metals (lead, cadmium, and mercury) subsample shall be extracted in accordance with EPA SW-846 Method 1311. If precipitate forms upon acidification of the TCLP extract to pH < 2 with nitric acid, the TCLP extract shall be acid digested using EPA SW-846 Method 3015A. The TCLP extract or digested TCLP extract shall then be analyzed for lead and cadmium according to EPA SW-846 Method 6010C. The TCLP extract or digested TCLP extract shall also be analyzed for mercury according to EPA SW-846 Method 7470A or 7473.

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iv. **Total Petroleum Hydrocarbons (TPH)**

The TPH subsample shall be extracted in accordance with one of the following EPA SW-846 Methods: 3540C, 3541, or 3545A. The TPH extract shall then be subjected to silica gel clean-up (i.e., EPA SW-846 Method 3630C) and the resulting cleaned extract analyzed in accordance with EPA SW-846 Method 9071B or 8015D; Standard Methods 5520 A, E, and F (*Standard Methods for the Examination of Water and Wastewater*); or the Massachusetts Extractable Petroleum Hydrocarbons (EPH) Method.
(http://www.mass.gov/eea/docs/dep/cleanup/laws/eph0504.pdf)

b. **Annually:**

i. **Total Metals: 13 Priority Pollutant Metals**

The non-mercury priority pollutant metals subsample (total metals – Ag, As, Be, Cd, Cr, Cu, Ni, Pb, Sb, Se, Tl, & Zn) shall be acid digested using EPA SW-846 Method 3050B or 3051A. The digested subsample shall then be analyzed for the 12 non-mercury priority pollutant metals in accordance with EPA SW-846 Method 6010C. The total mercury subsample shall be analyzed in accordance with EPA SW-846 Method 7471B or 7473.

ii. **TCLP Metals: 8 RCRA Metals**

The TCLP RCRA 8 metals (As, Ba, Cd, Cr, Pb, Se, Ag, & Hg) subsample shall be extracted in accordance with EPA SW-846 Method 1311. If precipitate forms upon acidification of the TCLP extract to pH < 2 with nitric acid, the TCLP extract shall be acid digested using EPA SW-846 Method 3015A. The TCLP extract or digested TCLP extract shall then be analyzed for the 7 non-mercury RCRA metals according to EPA SW-846 Method 6010C. The TCLP extract or digested TCLP extract shall also be analyzed for mercury according to EPA SW-846 Method 7470A or 7473.

The results of the analyses shall be accompanied by a written statement prepared, reviewed and signed by the laboratory director describing the methods used in the Level III sub-sampling and certifying that the sub sampling and analytical methods and procedures used by the laboratory conform with this protocol and 40 CFR 461, subpart R.

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EXHIBIT D

TETRA TECH

June 2, 2014

John F. Shea, Esq.
Mackie Shea O'Brien PC
420 Boylston Street, Suite 504
Boston, MA 02116

Re: **Tire Pile Assessment**
North Main Street Properties
Middleton, Massachusetts

Dear Mr. Shea:

In January 2014 Tetra Tech, Inc. (Tetra Tech) prepared a letter summarizing field observations made on January 17, 2014 during an initial assessment of tire piles located on the properties at 295 Main Street and 272-328 Main Street in Middleton, Massachusetts (the Sites). The locations of the properties are shown on Figure 1.The letter included estimates of the approximate number and weight of tires on each property based on the measured dimensions and physical characteristics of the tire piles observed in January 2014, and presented an order-of-magnitude cost estimate for removal and disposal of the tires. The cost estimate prepared at that time did not include costs for planning, permitting, erosion control, access preparation, implementation oversight, post-removal stabilization/restoration, or post-removal documentation and reporting.

Since the January 17, 2014 Site visit, we have conducted additional review and detailed evaluation of the Sites during more favorable weather conditions, obtained input from tire removal and disposal contractors regarding the approximate quantity of tires and removal logistics and approach, and have identified the consulting services that will need to be provided to complete the tire removal program. In addition, we had a discussion with a representative of the Maine Department of Environmental Protection (MEDEP) who has managed tire removal and disposal programs at multiple tire dumps in Maine to evaluate whether the general approach discussed herein is reasonable. During the supplemental on-site evaluation we identified several additional tire piles at the 272-328 North Main Street properties that were not observed during the January 2014 visit because they were located in standing water that was frozen at the time, in areas obscured by snow and ice, or in areas remote from the remainder of the other tire piles and located only recently during an evaluation of wetland resource areas. Based on the additional information regarding Site conditions, identification of additional tire piles, input from tire removal/disposal contractors, and consulting services anticipated to be required for the tire removal program, we have prepared this revised assessment and cost estimate for removal and disposal of the tires.

Engineering and Consulting Services
One Grant Street
Framingham, MA 01702
Tel 508.903.2000 Fax 508.903.2001

TETRA TECH

Methodology

On January 17, 2014, Tetra Tech personnel visited the Sites to observe the numbers and locations of tire piles, evaluate the method of stacking of the tires, estimate the approximate percentage of tires with rims, and evaluate the types of tires in each pile (e.g., passenger car vs. large truck tires). During the visit the dimensions of each pile were measured using a 200-foot tape to evaluate the length and width, and pile heights were estimated by visual observation and measurement of fixed objects near each pile. The dimensions measured in the field for the four (4) large piles located on 328 Main Street were verified using a GIS-based application which calculates the area of irregular shapes after delineation of the boundaries of those shapes using aerial photography. GIS verification was used for these piles because field conditions and the size and configurations of the piles made measurements of their dimensions relatively difficult compared to measurement of the smaller piles. In addition, because these piles are substantially larger than any of the other piles, significant inaccuracies in quantification of their size could materially impact the overall estimate of the number of tires on the Sites.

The approach to the tire pile assessment was generally based the techniques discussed in EPA-905-B-06-001, *Scrap Tire Cleanup Guidebook*, January 2006 (the EPA Guidebook). The volume of tires in the piles located on the Sites was calculated in cubic yards (yd^3) using the measurements discussed above. The volumes were converted to number of tires, expressed as passenger tire equivalents (PTE), based on estimated densities (PTE/yd^3) obtained from the EPA Guidebook. The estimated PTEs were converted to tons using a conversion factor of 100 PTE/ton as presented in the EPA Guidebook.

The approach to quantification of tire pile dimensions and the related estimation of the number and weight of tires was evaluated through a discussion with Bill Butler from the MEDEP. Mr. Butler has managed tire pile mitigation programs at multiple tire disposal sites in Maine that were substantially larger than the Site, and the approach he described for estimating tire pile size and weight is consistent with that presented in the EPA guidance discussed herein and used during our evaluation of the Sites. Mr. Butler indicated that compaction may be an issue for very large tire piles, typically those 20 feet or more high, but we do not expect compaction to materially influence tire pile assessment at the Sites because the maximum pile height is approximately nine (9) feet. He also noted that MEDEP prefers to shred tires on-site, prior to transportation to a disposal facility, so that the weights recorded at the receiving facilities do not include dirt and water which accumulates in the tires or the weight of rims present on some of the tires.

Field observations made at each property, the estimated number of tires (PTE), and the estimated tonnage of tires in the piles are summarized below. It is noted that because of the estimating inherent in measurement of piles, and the generality of the conversion factors used to estimate the number of tires and tonnage based on pile volumes, the estimates presented herein are likely accurate within approximately +/- 25%.

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295 North Main Street

At 295 North Main Street there is a single pile of coarsely shredded tires located in the northern portion of the property. In addition, individual tires and several small piles of intact tires are scattered around the property. Based on visual inspection it is estimated that approximately 400 to 500 intact tires are on the property in addition to the shredded tires in the large pile, and approximately 50% of the intact tires have rims.

Based on field measurements, it is estimated that the pile of coarsely shredded tires on this property contains approximately 950 yd^3 of tire material. Using a conversion factor[1] of 50 PTE/yd^3, the pile is estimated to contain approximately 47,500 tires. Including the intact tires scattered around the property, it is estimated that a total of approximately 48,000 tires are present, representing approximately 480 tons of tire material requiring removal and off-site disposal. Based on our review of historic aerial photographs and field observations, the estimate assumes that the bottom of the pile does not extend below the elevation of the ground surface surrounding the pile.

272-328 North Main Street

There are eleven (11) medium to large tire piles located on these properties, nine (9) other areas where smaller piles of several hundred tires each were observed, and numerous individual tires scattered throughout the properties. The eleven medium to large tire piles are identified on the attached Figure 2 which also depicts the locations of the smaller piles. The attached Table 1 summarizes field measurements of the dimensions of the medium to large piles, areas determined for piles 6 and 7 using GIS-based verification[2], and the PTE and tonnage based on conversion factors taken from the EPA Guidebook. As shown on Table 1, the PTE and tonnage estimates include the estimated number of tires in the smaller piles and individual tires scattered throughout the properties. Based on visual inspection, we estimate that less than 5% of tires have rims, primarily tires located in the smaller piles or individual tires scattered throughout the property, although many of the larger truck tires identified in pile 5 were mounted on rims. The estimates presented on Table 1 are for tires without rims, so rims will need to be removed on-site prior to loading and transport of the tires, otherwise the weight measured at the receiving facilities will be greater than the estimated weight shown on Table 1. We note it is possible that isolated tire piles may be present in other areas that were not directly observed or are obscured by dense vegetation; however, those additional piles are not likely to contain a sufficient number of tires to materially change the estimates presented in Table 1.

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[1] EPA-905-B-06-001states "the density of shredded-tire stockpiles can range from 30 to 90 PTE/cubic yard", and depends on the size of the shredded pieces, stockpile depth, age and temperature. 50 PTE/cubic yard was used in this case based on the size of the tire pieces, depth and age (since at least 1995), the latter likely resulting in some compaction of the stockpile over time.

[2] GIS verification confirmed the accuracy of the areas estimated for Piles 6 and 7 based on field measurements.

TETRA TECH

Based on field measurements, the GIS-based verification of the area encompassed by piles 6 and 7, and estimates of the total number of tires in the nine small piles and individually scattered throughout the property, it is estimated that the total volume of tires on the property is approximately 10,311 yd^3. Using a conversion factor[3] of 10 PTE/yd^3, it is estimated that approximately 103,110 tires are on the 272-328 North Main Street properties, representing approximately 1,031 tons of tire material requiring removal and off-site disposal. The estimated tonnage assumes that rims will be removed and segregated for recycling prior to the tires being removed from the properties. Based on our review of historic aerial photography and field observations, the estimate assumes that the bottom of the piles do not extend below the elevation of the ground surface surrounding the piles.

Removal Cost Estimates

The cost for removal and disposal of the tire piles includes contractor costs for loading and transport to a receiving facility, site preparation and restoration costs, and costs for permitting and consulting services.

To estimate the cost for loading, transport and disposal of the tire piles two contractors, Bob's Tire (Bob's) from Wareham, Massachusetts and BDS Waste Disposal, Inc. (BDS) from Corinna, Maine, visited the Sites and provided Tetra Tech with cost estimates. The proposal from Bob's was a lump sum cost of $750,000 which did not break out the allocation of costs between loading, transport and disposal. During discussions after receipt of the proposal, Bob's estimated that 500,000 to 700,000 tires were present on the Sites. That number of tires is significantly greater than the approximately 151,100 tires (1,511 tons) estimated by Tetra Tech based on the EPA guidance document, an approach supported by discussions with MEDEP. The proposal provided by BDS estimated that approximately 1,750 to 2,000 tons of tires are present on the Sites, or approximately 175,000 to 200,000 tires, a range which compares more favorably to the estimate prepared by Tetra Tech based on field measurements and EPA guidance. Since our original estimate was considered to be accurate within approximately +/- 25%, a range of 1,750 to 2,000 tons was used for cost estimating purposes.

Based on the proposal from BDS, and ancillary services and activities required to complete the work, the key elements of the tire removal and disposal program and their associated costs are as follows:

- Tire loading, transport and disposal – Estimated 1,750 to 2,000 tons @ $75/ton - $131,250 to $150,000 (Removal of rims will be an additional labor and equipment cost.)
- Preparation of gravel pad for cleaning of truck tires - $2,400
- Moving of tires from remote locations to tractor trailer-accessible areas - $9,400

[3] EPA-905-B-06-001states "the density of loose, shallow, whole-tire stockpiles is normally about 10 PTE/cubic yard but can range from 8 to 27 PTE/cubic yard." 10 PTE/cubic yard was used in this case based on the loose nature of the tires in the piles.

TETRA TECH

- Estimated cost for access preparation and silt fence[4] - $10,000 to $20,000
- Permitting, removal plan development, field oversight and reporting - $103,100

Based on these items and their associated costs, the total estimated cost to implement the tire pile removal program is $256,150 to $284,900. The actual costs may differ from the estimate based on the actual number and weight of tires transported to the receiving facility, the duration of the work, and local permitting requirements.

Please contact me if you have any questions or need additional information.

Very truly yours,

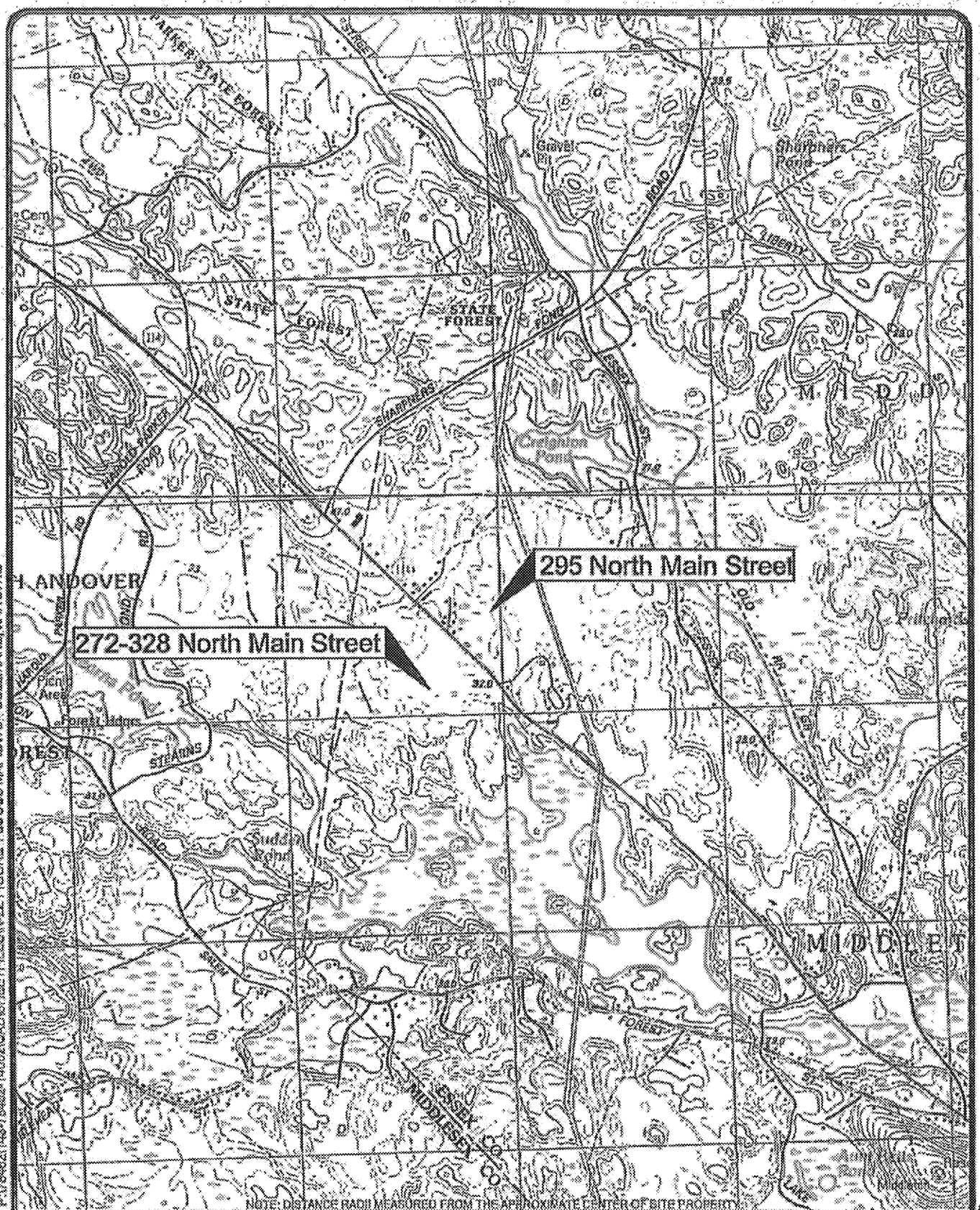
Raymond C. Johnson

Raymond C. Johnson, P.G., L.S.P.
Senior Vice President

Attachments

P:\78452\143-78452-14002\DOCS\REPORTS\TIRE PILE INFORMATION\UPDATED TIRE PILE ASSESSMENT_JUNE 2 2014.DOCX

[4] The actual cost for access preparation and silt fence will depend on conditions when the removal is conducted and requirements of the Middleton Conservation Commission.



TETRA TECH

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Framingham, MA 01701
Phone: (508) 903-2000 Fax: (508) 903-2001

0' 2000'

Information obtained from USGS Map of Wilmington and Reading Quadrangle dated 1987

272-328 & 295 North Main Street
Middleton, Massachusetts

Locus Map

Project No.:	143-78452-14002
Date:	27Jan2014
Designed By:	RCJ
Figure	1

Bar Measures 1 Inch

Copyright: Tetra Tech

1/27/2014 8:39:44 AM - P:\78452\143-78452-14002\CAD\SHEETFILES\N-ZZ FIGURE 1 LOCUS MAP.DWG - CULLINANE, KATTLYNE

1 inch = 150 feet

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0 75 150
Feet

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Base Map:
USGS April 2013 Aerial

212-318 North Main Street
Middleton, Massachusetts

Tire Pile Location Plan

Figure 2

Table 1
Tire Pile Characterization Summary
272-328 North Main Street
Middleton, Massachusetts

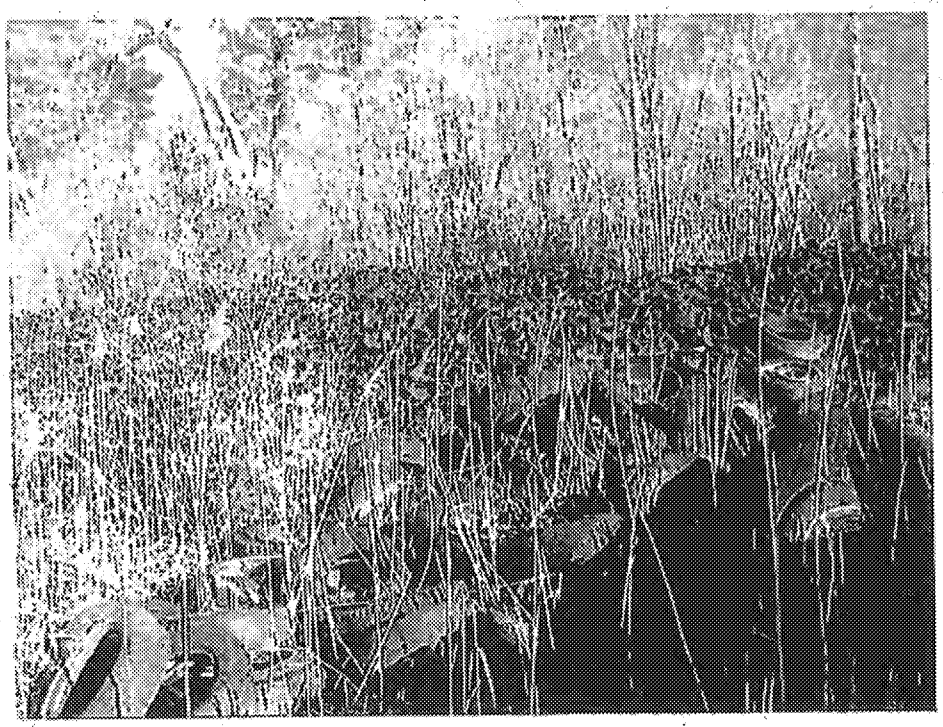
Pile No.	Description		Dimensions (ft.)			Volume (ft^3/yd^3) or No. of Tires	Density[3] (PTE/ yd^3)	Quantity	
	Tire[1]	Pile[2]	Length	Width	Height			PTE or No. of Tires	Tons[4]
1	P	Loose	40	20	5	4,000/148	10	1,480	14.8
2	P	Loose	50	25	5	6,250/232	10	2,320	23.2
3*	P	Loose	60	55	10	33,000/1,222	10	12,220	122.2
4*	P	Loose	70	60	9	37,800/1,400	10	14,000	140
5	T-80%/P-20%	Loose	70	25	8	14,000/519	10	5,190	51.9
6*	P	Loose	GIS-based area = 9,000 ft^2		9	81,000/3,000	10	30,000	300
7*	P	Loose	GIS-based area = 8,500 ft^2		8	68,000/2,519	10	25,190	251.9
8	P	Loose	30	20	4	2,400/89	10	890	8.9
9	P	Loose	60	30	4	7,200/267	10	2,670	26.7
10	P	Loose	10	10	4	400/15	10	150	1.5
11	T-50%/P-50%	Loose	30	60	6	10,800/400	10	4,000	40
	P	Loose	Small piles and individual tires			Estimated 5,000 tires	NA	5,000	50
							Total	103,110	1,031.1

*Areas for Piles 6 and 7 based on GIS verification; areas based on field measurements were 12,000 ft^2 and 7,000 ft^2, respectively. GIS verification confirmed the area estimated for Piles 3 and 4 based on field measurements.

PTE – Passenger Tire Equivalent
[1] Truck (T), Passenger (P), Off the Road (OTR), Shredded – coarse (SC) or Shredded – fine (SF)
[2] Loose, stacked, horizontal stacked or laced
[3] Density ranges from 8 to 27 PTE/yd3; normally about 10 PTE/yd3 for loose, shallow, whole-tire stockpiles
[4] Weight calculated based on conversion factor of 100 PTE/ton

Photographs from Tire Pile Assessment
295 North Main Street
Middleton, Massachusetts
January 17, 2014

Tire Pile with Intact Tires in Foreground



Close-up of Shredded Tires

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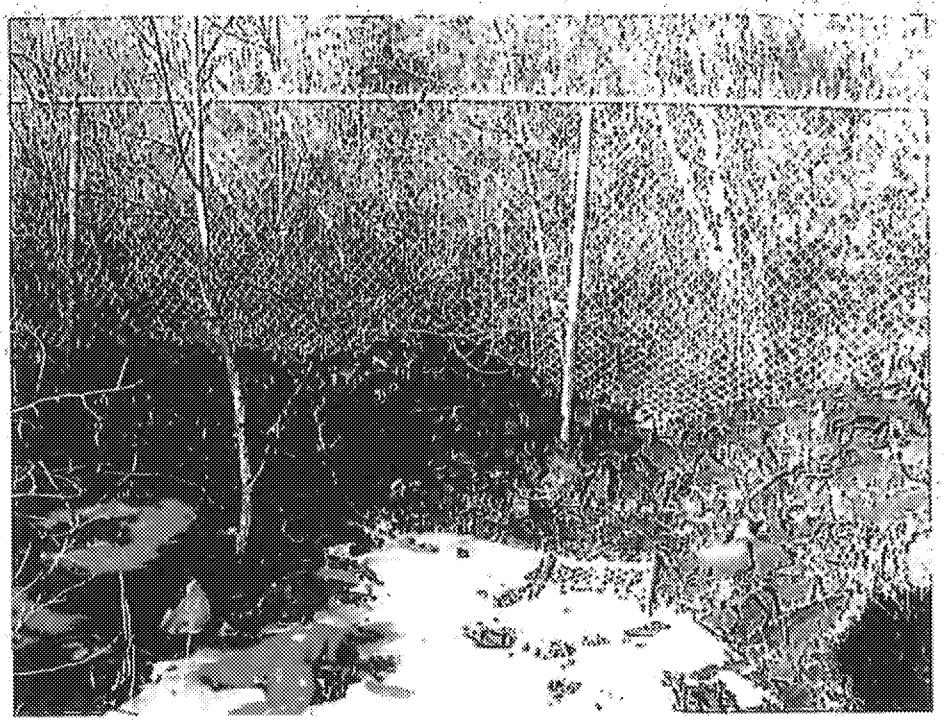
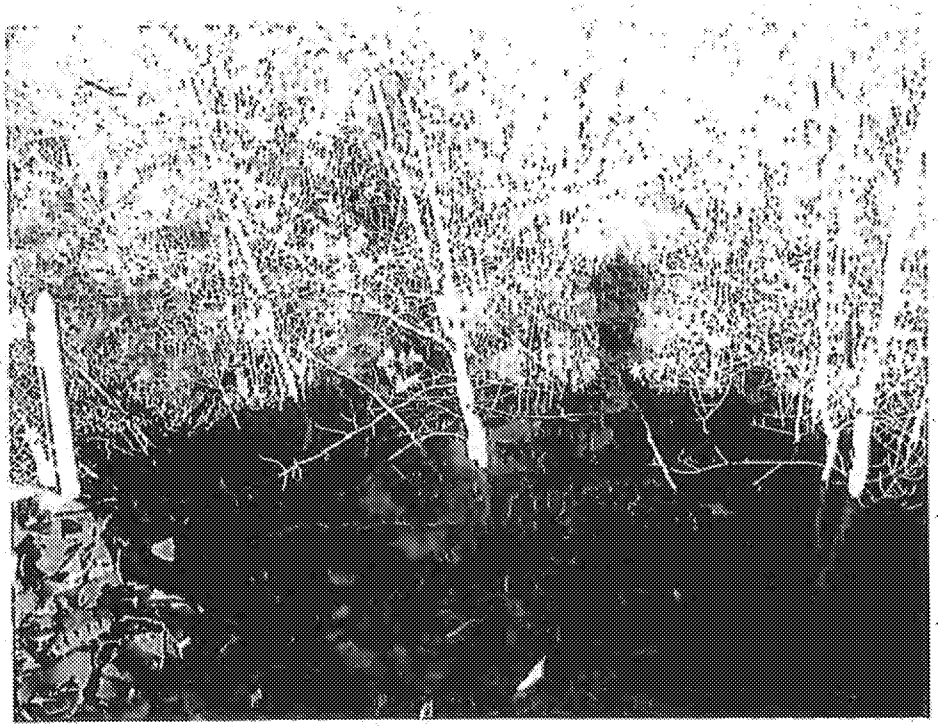
Tire Pile

Individual Tires

Shredded Tires along Northern Fence Line



Standing Water Adjacent to North Site of Tire Pile



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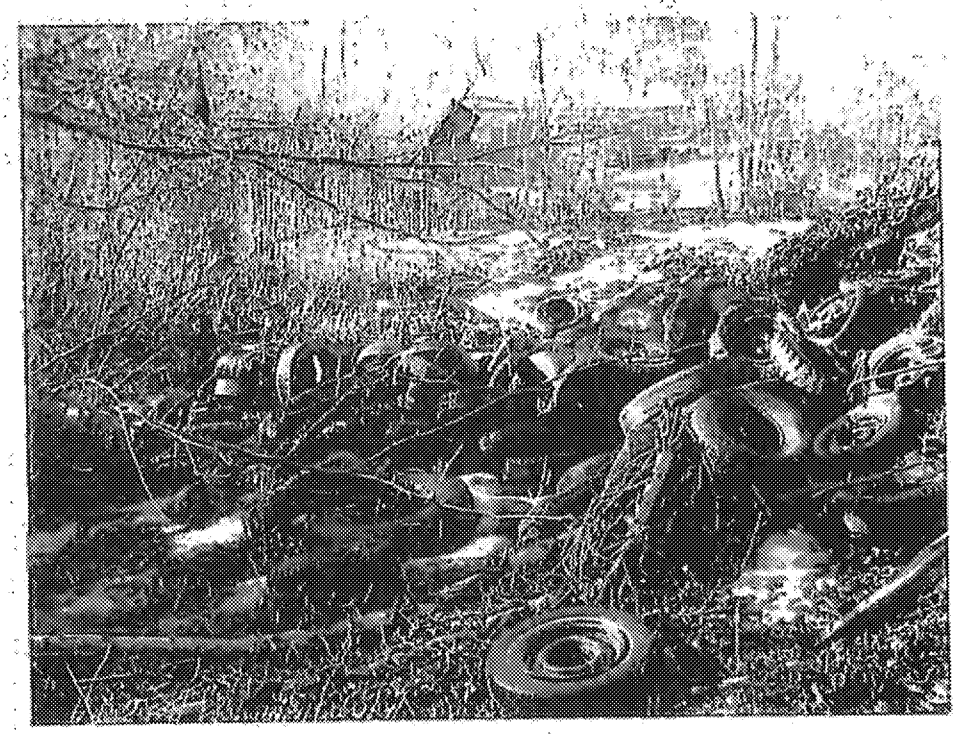
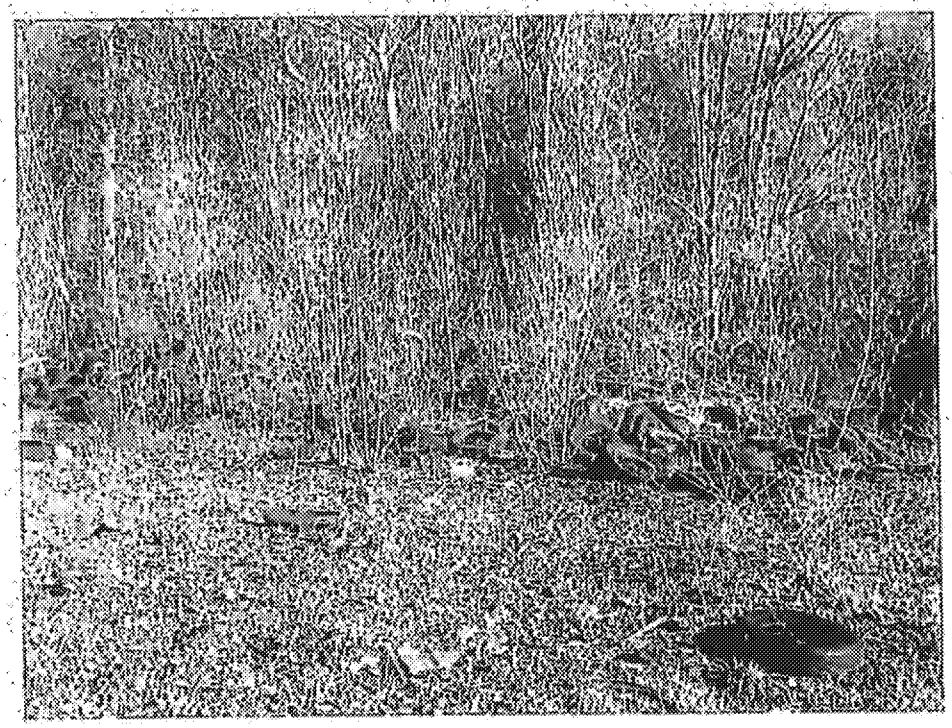
Small Pile of Intact Tires



Photographs from Tire Pile Assessment
272-328 North Main Street
Middleton, Massachusetts
January 17, 2014

Tire Pile #1



Tire Pile #2

Tire Pile #2

Tire Pile #3

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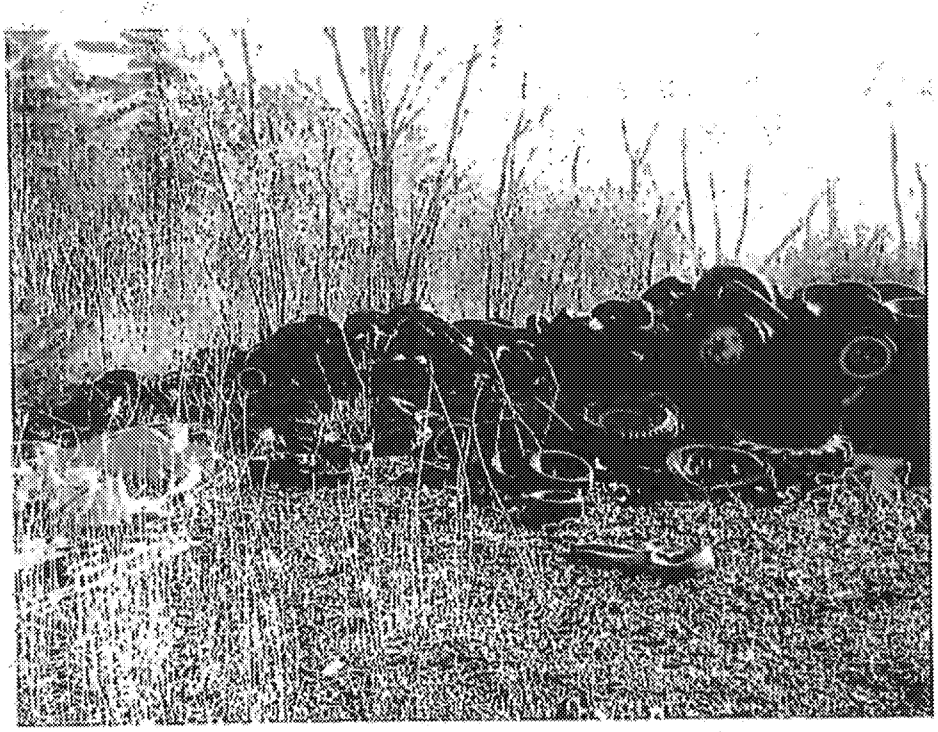
Tire Pile #3

Tire Pile #4

Tire Pile #4

Tire Pile #5



Tire Pile #5

Tire Pile #6

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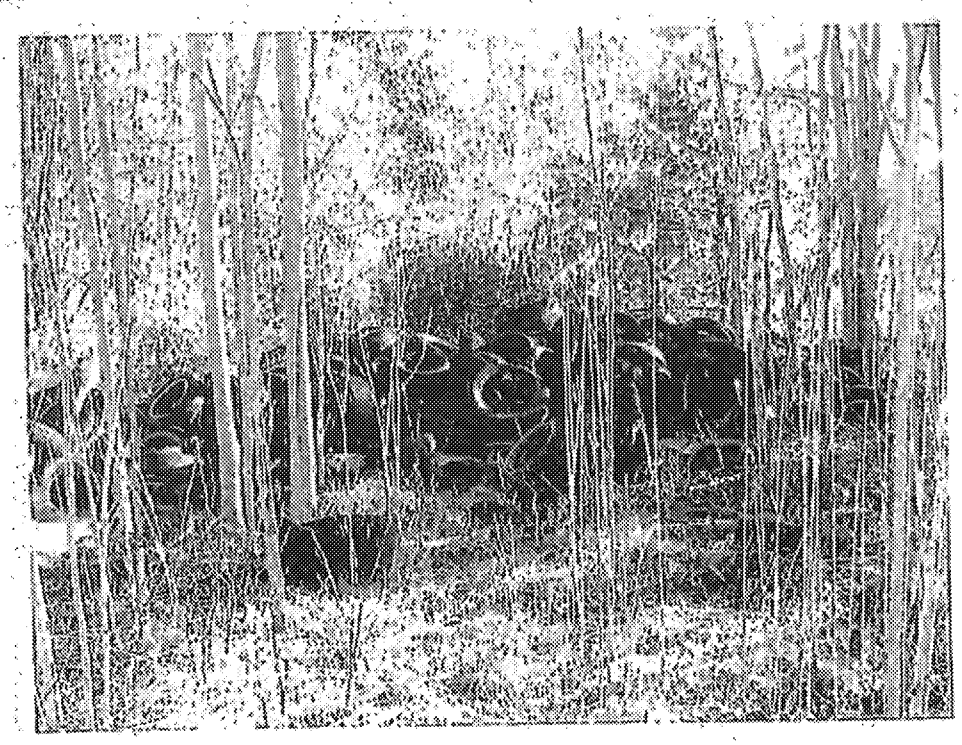
Tire Pile #6

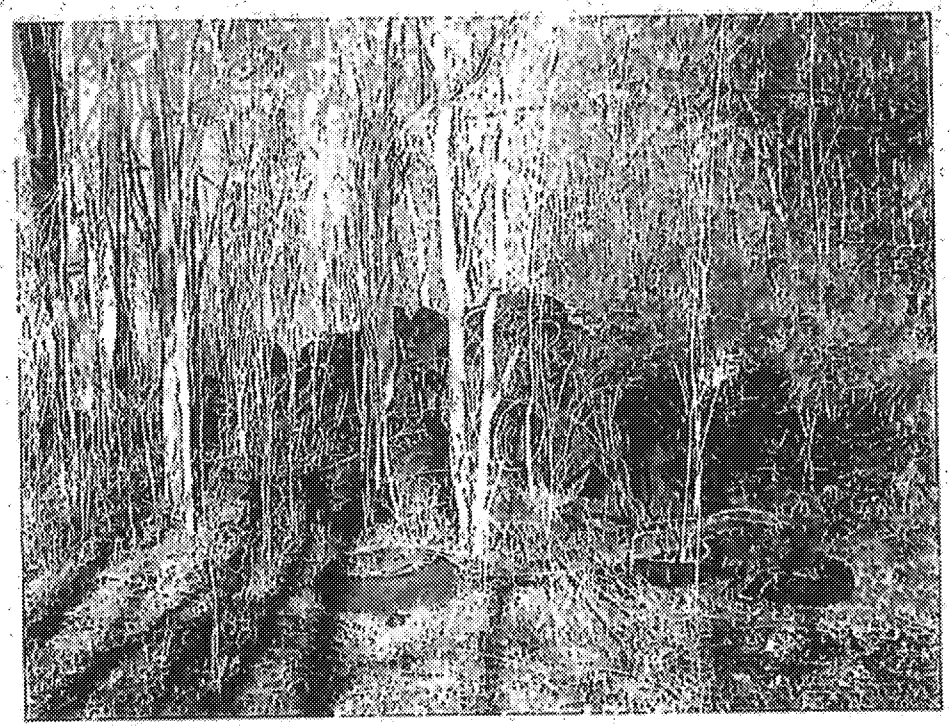
Tire Pile #7

Tire Pile #7

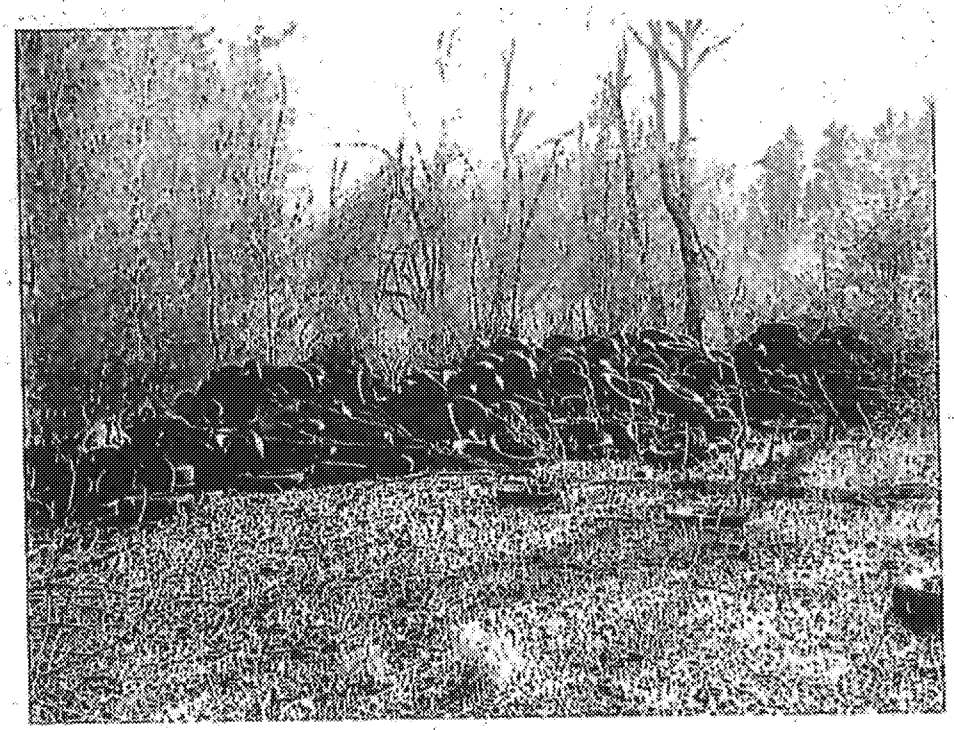
Tire Pile #8



Tire Pile #8



Tire Pile #9



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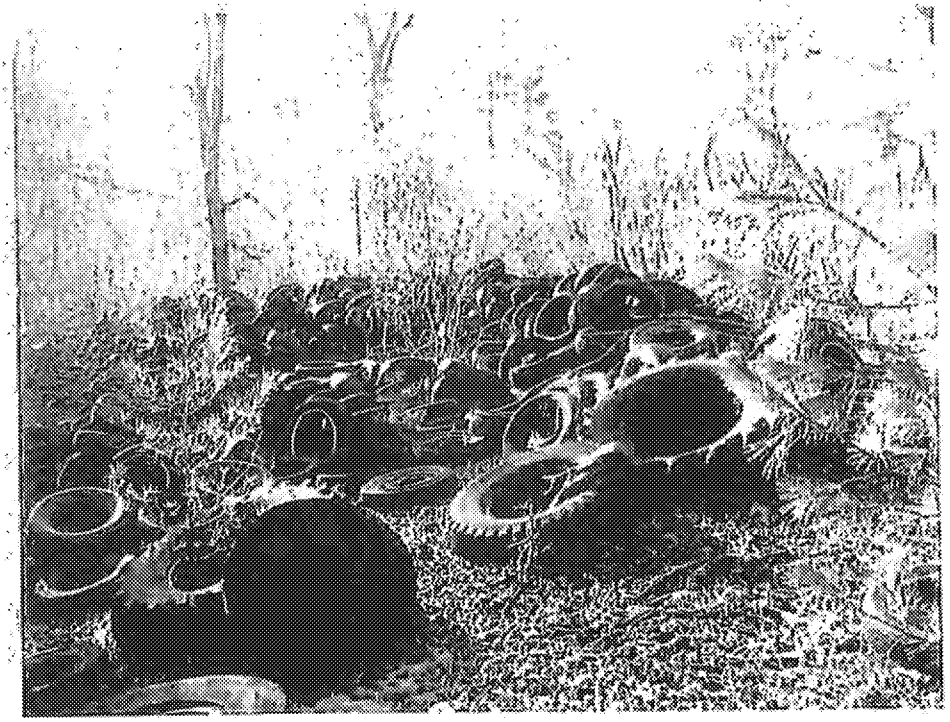
Tire Pile #9



Standing Water South of Tire Pile #9

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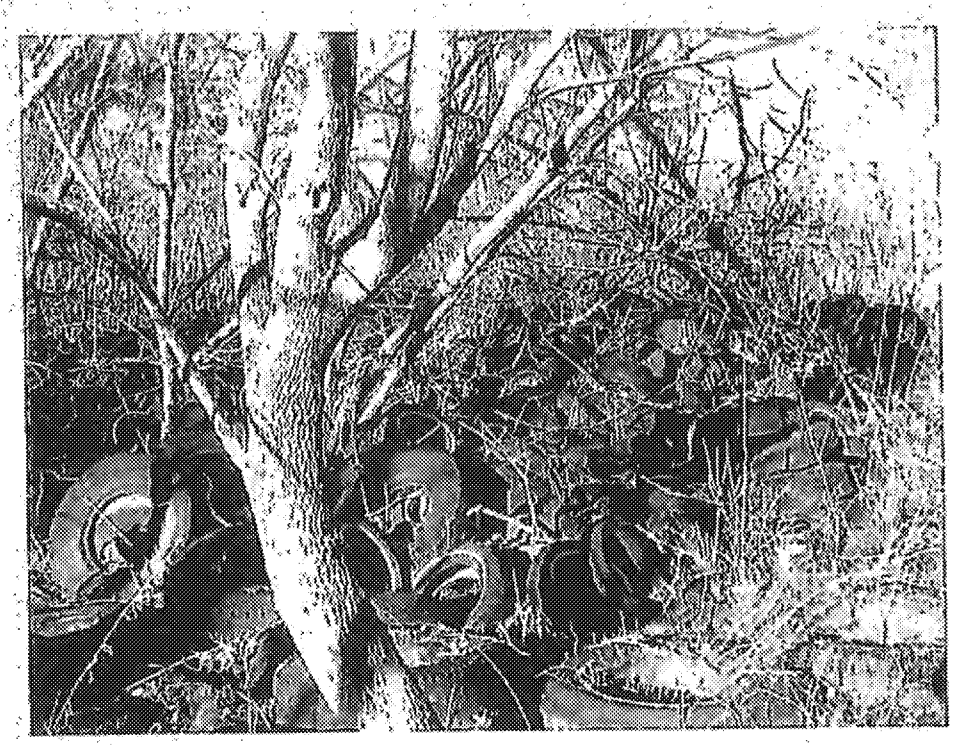
Tire Pile #10

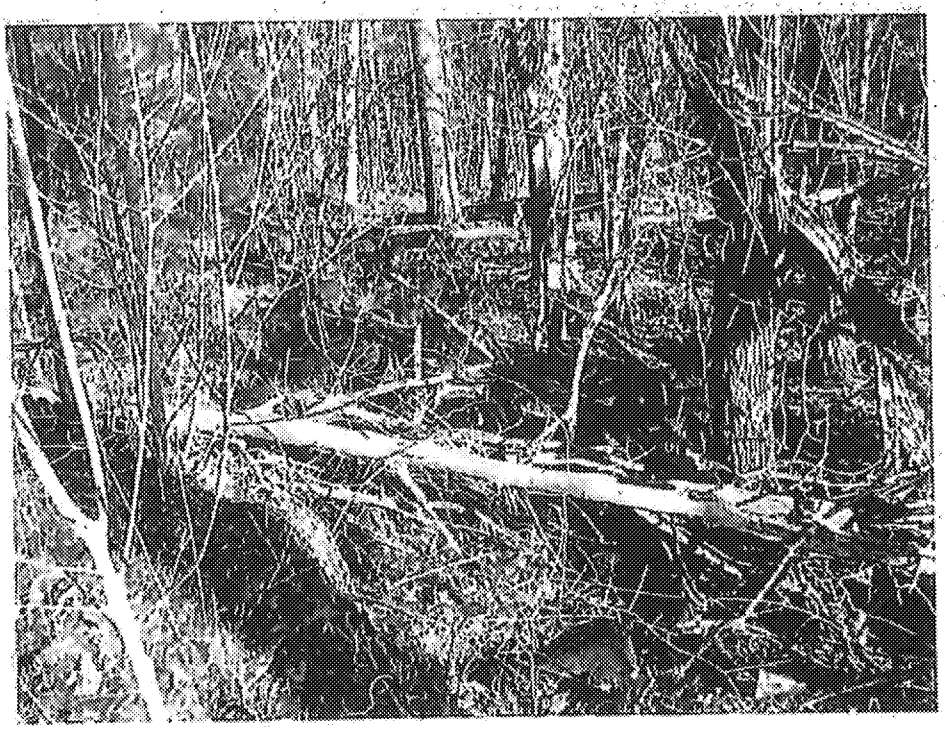
Tire Pile #10

Tire Pile #11



Tire Pile #11

Small Tire Pile East of Pile #5 and North of Pile #8



Small Tire Pile West of Pile #7

Small Tire Pile North of Pile #7

Small Tire Pile East of Pile #2

EXHIBIT E

MERCURY SEP

INCREASING DIVERSION OF WASTE MERCURY IN MASSACHUSETTS THROUGH OUTREACH, EDUCATION, AND TECHNICAL ASSISTANCE AND SUPPORT

Focus: ***mercury containing products waste from commercial buildings.***

A. BACKGROUND:

Mercury, a potent neurotoxin that can cause serious health problems, is present in many products commonly used in commercial buildings such as lamps, thermostats, switches on heating, electric, ventilation, and security systems, and other equipment; it can even be found in some rubber mats and cleaners. On average, each mercury thermostat contains approximately four grams of mercury; fluorescent lamps contain anywhere from 2.5 to 75 mg. Exposure to this toxin can adversely affect fertility and blood pressure regulation, and can lead to memory loss, vision loss, insomnia, headaches, and other serious health issues.

Improper usage and disposal of these products releases mercury into the environment, where it can contaminate our air, water, and food supply. When products containing mercury are disposed of in the regular trash instead of sent to a recycling facility, it poses a health risk to the entire community, especially building occupants, maintenance staff, and waste haulers. Outreach and education on the proper identification, handling, and disposal of mercury products will help protect the health and safety of building maintenance workers and others who handle these products at the end of their useful life. Preventing these products from entering the main waste stream will also protect the larger community from the risks of exposure to this toxin in the environment.

B. *PRIMARY GOAL:*

This one-year project will demonstrably increase the proper management and recycling of mercury containing products found in commercial buildings in Massachusetts, thereby diverting mercury from the waste stream, reducing environmental contamination and pollution, and reducing risk and threat to public health caused by emission and/or discharge of neuro-toxins associated with mercury.

C. SECONDARY GOALS:

Additional goals of this project include:

- Increased education of commercial building owners, manager, staff and occupants regarding risks associated with waste mercury and best ways to manage waste mercury from discarded mercury containing products;
- Enhance worker safety for building management, staff, occupants and waste haulers;
- Improve the environmental footprint of commercial buildings in Massachusetts; and
- Reduce building management companies' risk of enforcement penalties and environmentally-related liabilities.

D. OBJECTIVES

Objective 1: Verify Generation Data; Establish Baseline Collection Volumes and Metrics; Design Education Program

1. **Verify Baseline Data**: At the start of the project, PSI will verify generation, recycling, and disposal rates to the greatest extent possible using the best available data, including information from NEWMOA, recyclers, building management associations, and industry sources.
2. **Establish Metrics for Success**: Using these data, PSI will develop metrics for success, including specific goals for percentage and volume increases in mercury lamp collection and management at recycling facilities.
3. **Design Education Campaign**: PSI will tap its national network of state and local government agencies, and industry partners, to identify the most successful outreach methods for recycling commercial fluorescent lamps. Using this information, PSI will design an education and outreach program.

Objective 2: Engage Key Stakeholders in Commercial Lamp Management

1. **Identify Key Stakeholders**: PSI will identify all key stakeholders involved in proper management of mercury containing products in commercial buildings. An initial list includes building management companies (e.g. Drucker & Falk), the Commercial Real Estate Development Association (NAIOP), the Building Owners and Managers Association (BOMA), building maintenance and custodial personnel, facility managers, waste management and recycling.
2. **Engage Stakeholders**: PSI will conduct outreach via phone, email, and in-person meetings to each stakeholder group, identifying key partners who can represent each group, can disseminate educational information, and can help coordinate training sessions.
3. **Identify Educational and Logistical Needs**: Through the stakeholder engagement process described above, PSI will identify any existing challenges to proper management (e.g., awareness, contracts, facilities) and the best means and opportunities for education (e.g., creating better signage, tapping into existing workshops and training sessions for managers and custodial staff; union outreach, etc.)

Objective 3: Educate and Train on Mercury Containing Product Management

1. **Design Materials**: PSI will design outreach and education materials specifically targeted to each stakeholder group and or product (e.g. posters, pamphlets, newsletters, videos).
2. **Facilitate and Enhance Existing Training**: PSI will organize and facilitate training sessions at workshops and meetings normally attended by target audiences.
3. **Conduct Particularized Outreach**: PSI will partner with stakeholders identified in Objective 2 to disseminate targeted promotional information regarding trainings, as well as educational materials, through the most effective channels for each particular audience (e.g., newsletters, conferences, lunch rooms, etc.).

Objective 4: Provide Technical Support on Mercury Containing Product Waste Diversion

1. **Facilitate Contracts**: PSI will identify building management companies with oversight of multiple facilities and/or large commercial buildings and that may need assistance to fully comply with applicable laws, and PSI will assist them to identify and establish contracts with recycling firms that can properly manage their mercury lamps.
2. **Provide Technical Support**: PSI will work with building managers, worker safety professionals, union leaders, and waste haulers to establish agreements on protocols for lawfully managing mercury containing products in the buildings they service, and will provide technical support to assist in overcoming obstacles that may arise during implementation of those protocols.

Objective 5: Measure Impacts of the Project and Publicize Results

At the conclusion of the outreach and education period, PSI will gather data again on the collection and recycling rates of mercury containing products from commercial buildings in Massachusetts. PSI will compare post-project data to the baseline data and determine the increase in volume of collected mercury waste from lamps to determine the success of the project, the aggregate positive effect on the environment, and to corresponding decrease in risk to human health. PSI will develop a report based on that data, and will publicize the results of the Mercury SEP implementation. Lastly, PSI will make recommendations for the future, including feasible options for continuing outreach and education.

E. CONTINUATION OF THE PROJECT

After the one-year SEP described above, and contingent on funds remaining or newly available pursuant to applicable provisions of the Consent Judgment, the PSI may extend implementation of the Mercury SEP, with such scope and time as approved by the Department.

F. PAYMENT:

One $50,000 to the Product Stewardship Institute, Inc. (PSI)
Approximate breakdown of projects costs:

Objective 1: $5,000
Objective 2: $5,000
Objective 3: $25,000
Objective 4: $10,000
Objective 5: $5,000

Payments to be disbursed from escrow, as approved by the Department, upon completion of each of the Objectives as described above.