

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
ONE CONGRESS STREET, SUITE 1100
BOSTON, MA 02114-2023

URGENT LEGAL MATTER - PROMPT REPLY NECESSARY
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 16, 2009

Wilfred Greene, President
Seaconke Wampanoag Tribe
Wampanoag Nation, Inc.
2220 Warwick Avenue, Apt. H10
Warwick, RI 02889-3166

RE: Unilateral Administrative Order for the Peterson/Puritan, Inc. Superfund Site

Dear Mr. Greene:

Enclosed is a Unilateral Administrative Order ("Order") requiring the Seaconke Wampanoag Tribe - Wampanoag Nation, Inc. ("Respondent") to refrain from conducting work at Peterson/Puritan, Inc. Superfund Site ("Site"), without prior approval from EPA. This is necessary in order to prevent and abate an imminent and substantial endangerment to the public health or welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

This Order applies to multiple parcels, including the Respondent's two parcels, described by the Cumberland Assessors Office and the Cumberland Registry of Deeds as Plat #14, Lot #23 and Plat #34, Lot #249. The Town of Cumberland owns a tax title interest in both of Respondent's parcels, subject to the Respondent's right of redemption. Plat #14, Lot #23, which includes the J. M. Mills Landfill, is located entirely within OU 2. Plat #34, Lot #249, is primarily within OU 1, but also spans into OU 2.

This Order further applies to parcels adjacent to Respondent's property, including a former privately-owned transfer station, divided into two parcels, one parcel owned by the Town of Cumberland (Plat #12, Lot #21) and a second parcel with tax title owned by the Town of Cumberland, subject to the right of redemption of Michael John Realty (Plat #12, Lot #18). This Order also applies to property owned by the Providence and Worcester Railroad (Plat #34, Lot #222, Plat #13, Lot #28, Plat #14, Lot #6, and Plat #15, Lot #91).

EPA is issuing this Order pursuant to Section 106(a) and Section 104(e)(5) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9606(a) and 9604(e) and the National Contingency Plan, 40 CFR § 300.400(d).

You may request a conference with EPA within three business days after receipt of this Order to be held no later than two business days before the effective date of this Order on any matter pertinent to this Order.

You may also submit written comments or statements of position on any matter pertinent to this Order no later than the time of the conference or two business days before the effective date of this Order if a conference is not requested to:

Michelle Lauterback, Senior Enforcement Counsel
U.S. Environmental Protection Agency
Office of Environmental Stewardship
One Congress Street, Suite 1100 (SES)
Boston, MA 02203-2211
TEL: (617) 918-1774

As described in Paragraph 66 of the Order, ten (10) business days after receipt by Respondent, the Order shall become effective unless a conference is timely requested.

Sincerely,

Michelle Lauterback

Michelle Lauterback
Senior Enforcement Counsel

Enclosure

cc: David Newton, EPA Remedial Project Manager
Donald Frankel, Trial Attorney, Department of Justice
Louis R. Maccarone, RIDEM
Lesley Rich, Esq., CPA
Patrick Conley, Esq.
Captain James P. Coyne, Operations Commander, Cumberland Police Department
Ray Madden, Building Official, Town of Cumberland
Will Greene, Greene's Construction
Hal Stallwood, Executive Assistant to the Mayor of Cumberland
Thomas Hefner, Solicitor of the Town of Cumberland

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of:)
PETERSON/PURITAN, INC. SUPERFUND SITE)
Seaconke Wampanoag Tribe--)
Wampanoag Nation, Inc.)
Respondent.)
Proceedings under Sections 106(a) and 104(e)(5) of the)
Comprehensive Environmental Response, Compensation,)
and Liability Act, as amended, 42 U.S.C. §§ 9606(a))
and 9604(e)(5))
Docket No.: CERCLA 01-2008-0097
UNILATERAL
ADMINISTRATIVE
ORDER

TABLE OF CONTENTS

I.	JURISDICTION AND GENERAL PROVISIONS	1
II.	PARTIES BOUND	2
III.	DEFINITIONS	2
IV.	FINDINGS OF FACT	6
V.	CONCLUSIONS OF LAW AND DETERMINATIONS	12
VI.	ORDER	13
VII.	NOTICE OF INTENT TO COMPLY	13
VIII.	REQUIRED ACTIONS	14
IX.	DESIGNATION OF REMEDIAL PROJECT MANAGER	15
X.	AUTHORITY OF REMEDIAL PROJECT MANAGER	15
XI.	EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES	15
XII.	ENFORCEMENT	16
XIII.	RESERVATIONS OF RIGHTS BY EPA	16
XIV.	OTHER CLAIMS	17
XV.	ACCESS TO INFORMATION	17
XVI.	RECORD RETENTION	18
XVII.	MODIFICATIONS	19
XVIII.	ADMINISTRATIVE RECORD	19
XIX.	OPPORTUNITY TO CONFER	19
XX.	SEVERABILITY	20
XXI.	APPENDICES	20
XXII.	EFFECTIVE DATE	20

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order (“Order”) is issued under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9606(a). This authority was delegated to the Administrator of the United States Environmental Protection Agency (“EPA”) by Executive Order No. 12580, 52 Fed. Reg. 2923 (Jan. 23, 1987), and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B. This authority was further redelegated by the Regional Administrator of EPA Region I to the Director, Office of Site Remediation and Restoration, Region I, by Region I Order Number 1200, Chapter 14-14B, dated June 30, 1995. This Order is also issued pursuant to the authority vested in the President of the United States by Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5), and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. § 300.400(d)(4). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923, redelegated to the Regional Administrators of EPA on May 11, 1994, by EPA Delegation No. 14-6, and further delegated concurrently to the Director, Office of Site Remediation and Restoration, the Manager, Emergency Planning and Response, Office of Site Remediation and Restoration, and the Managers, Remediation and Restoration I and II, Office of Site Remediation and Restoration, as appropriate, by Order No. 1200, Chapter 14-6, September 3, 1996.
2. This Order pertains to the Seaconke Wampanoag Tribe - Wampanoag Nation, Inc.’s (the “Respondent”) activities on property located within the Peterson/Puritan, Inc. Superfund Site (the “Site”).
3. This Order requires the Respondent to seek EPA’s prior written approval before conducting certain activities at the Site, as described in Paragraph 38.
4. The parcels subject to the restrictions set forth in Paragraph 38(b)(i) to 38(b)(vi) of this Order (the “Restricted Parcels”) include the following parcels: (1) two parcels owned by the Respondent (“SWT Property”), described by the Cumberland Assessor’s Office and the Cumberland Registry of Deeds as Plat #14, Lot #23 and Plat #34, Lot #249.¹ Plat #14, Lot #23 includes the former J. M. Mills Landfill and is located entirely within Operable Unit Two (“OU 2”) of the Site. Plat #34, Lot #249 is primarily within Operable Unit One (“OU 1”) of the Site, but also spans into OU 2. Plat #34, Lot #249 contains debris piles that are considered by EPA to be an extension of the J. M. Mills Landfill, and (2) adjacent parcels, including property owned by

¹ On September 10, 2008, the Town of Cumberland acquired a tax title interest in Plat #14, Lot #23 and Plat #34, Lot #249, subject to the right of redemption of the SWT, because of non-payment of real estate taxes.

the Providence and Worcester Railroad (Plat #34, Lot #222, Plat #13, Lot #28, Plat #14, Lot #6, and Plat #15, Lot #91) (“P&W Property”), property owned by J. M Mills, Inc. commonly referred to as the Unnamed Island (Plat #12, Lot #12) (“Unnamed Island”), and the Nunes Transfer Station, consisting of two parcels (Plat #12, Lot #18 and Plat #12, Lot #21) (“Nunes Transfer Station”). The Town of Cumberland’s Assessors plat maps 12, 13, 14, 15 and 34 are attached as Appendix A.

5. EPA has notified the State of Rhode Island (the “State”) of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. PARTIES BOUND

6. This Order applies to and is binding upon the Respondent and its officers, directors, employees, successors and assigns, as well as any person or entity that receives any interest in the SWT Property from Respondent or that uses the SWT Property with the permission of Respondent or the knowledge and acquiescence of Respondent.

7. The Respondent shall ensure that its officers, directors, employees, and representatives receive a copy of this Order and that they comply with this Order. Respondents shall also provide a copy of this Order to any person that receives from Respondent any interest in the SWT Property or any other right to use the SWT Property or that is permitted by Respondent to use the SWT Property and shall ensure that such persons comply with this Order. Respondent shall also provide a copy of this Order to any person to whom Respondent transfers ownership of the Property and shall require such person to agree to comply with the terms of this Order. Respondent shall be responsible for any noncompliance with this Order.

III. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order or in the attached appendices and incorporated hereunder, the following definitions shall apply:

a. “AOC” shall mean the October 18, 2004, Third Amendment to an Administrative Order on Consent requiring a group of potentially responsible parties (“PRPs”) to perform a remedial investigation and feasibility study (“RI/FS”) at the OU 2 Area.

b. “CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

c. "Consent Decree" shall mean the Consent Decree entered by the United States District Court for the District of Rhode Island on December 18, 1995, in United States v. CCL Custom Manufacturing, Inc., No. 95-397, pursuant to which a group of PRPs are performing the remedial design and remedial action ("RD/RA") for OU 1 under the oversight of EPA.

d. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

e. "Effective Date" shall be the effective date of this Order as provided in Section XXII.

f. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

g. "J. M. Mills Landfill" or "Landfill" shall mean the landfill that operated on the SWT Property during the period from 1954 to 1986.

h. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

i. "Nunes Transfer Station" shall mean Plat #12, Lot #18 and Plat # 12, Lot # 21, which are located next to the SWT Property in the southern portion of OU 2. The Nunes Transfer Station was formerly a privately owned truck maintenance garage, waste separation facility, and transfer station that arranged for waste to be disposed of at the J. M. Mills Landfill. The Nunes Transfer Station was subsequently used by Nunes Disposal Service as a waste hauling operation where wastes were separated, stockpiled, and trucks were maintained and stored overnight. The Nunes Transfer Station is comprised of two parcels, Plat #12, Lot #18 and Plat #12, Lot #21. The Town of Cumberland owns a tax title interest in Plat #12, Lot #18, subject to the right of redemption of Michael John Realty, and the Town owns Plat #12, Lot #21.

j. "Order" shall mean this Unilateral Administrative Order, all appendices attached hereto, and all documents incorporated by reference into this document. In the event of conflict between this Order and any appendix or other incorporated documents, this Order shall control.

k. "OU 1" shall mean Operable Unit 1, which is the operable unit at the Site that addresses contamination caused primarily by the disposal of hazardous substances associated with certain industrial operations located at the Site.

Peterson/Puritan, Inc. Superfund Site
Docket No. CERCLA 01-2008-0097

Unilateral Administrative Order

1. "OU 1 Area" shall mean that portion of the Site that is being addressed by Operable Unit 1, as generally shown on the aerial map attached hereto as Appendix B.

m. "OU 1 PRPs" or "OU 1 PRP Group" shall mean the group of PRPs responsible for performing the RD/RA at OU 1 pursuant to the Consent Decree. This group includes KIK Custom Products, Inc., Lonza, Inc., Pacific Anchor Chemical Corporation, and SUPERVALU Operations, Inc.

n. "OU 1 RD/RA" shall mean the remedial design/remedial action for Operable Unit 1 of the Site, which was selected by EPA in a Record of Decision dated September 30, 1993. The remedial design is the phase where the technical specifications for cleanup remedies and technologies are designed. The remedial action follows the remedial design phase and involves the actual construction or implementation phase of the cleanup. The OU 1 RD/RA is being implemented by certain potentially responsible parties pursuant to the Consent Decree.

o. "OU 2" shall mean Operable Unit 2, which is the operable unit at the Site that addresses contamination caused primarily by the disposal of hazardous substances at the J. M. Mills Landfill.

p. "OU 2 Area" shall mean that portion of the Site addressed by Operable Unit 2, as generally shown on aerial map attached hereto as Appendix B.

q. "OU 2 PRPs" or "OU 2 PRP Group" shall mean the group of PRPs responsible for conducting the OU 2 RI/FS pursuant to the terms of the AOC. This group includes KIK Custom Products, Inc., Waste Management, Inc., and Unilever.

r. "OU 2 RI/FS" shall mean the remedial investigation/feasibility study for Operable Unit 2 at the Site. The remedial investigation serves as the mechanism for collecting data to, inter alia: characterize site conditions; determine the nature of the waste; assess risk to human health and the environment; and conduct treatability testing to evaluate the potential performance and cost of the treatment technologies that are being considered. The feasibility study is the mechanism for the development, screening, and detailed evaluation of alternative remedial actions.

s. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.

t. "Parties" shall mean EPA and the Respondent.

u. "P&W Property" shall mean the following property owned by the Providence and Worcester Railroad: Plat #34, Lot #222, Plat #13, Lot #28, Plat #14, Lot #6, and Plat #15, Lot #91, each of which is located within the OU 1 and/or OU 2 areas of the Site.

v. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

w. "Remedial Work" shall mean the response and remedial work to be performed by the OU 1 PRP Group and OU 2 PRP Group.

x. "Respondent" shall mean the Seaconke Wampanoag Tribe - Wampanoag Nation, Inc., a Rhode Island 501(c)(3) not-for-profit corporation, as further described in Paragraph 11, as well as all parties bound by this Order pursuant to Paragraph 6 of this Order. The Town of Cumberland owns a tax title interest in Plat #14, Lot #23 and Plat #34, Lot #249, subject to the Respondent's right of redemption. These parcels are referred to herein as the SWT Property.

y. "Restricted Parcels" shall mean all of the parcels included in the SWT Property, the Nunes Transfer Station, the P&W Property, and the Unnamed Island, as those terms are defined herein.

z. "RIDEM" shall mean the Rhode Island Department of Environmental Management.

aa. "Section" shall mean a portion of this Order identified by a Roman numeral.

bb. "Site" shall mean the Peterson/Puritan, Inc. Superfund Site, consisting of two operable units ("OUs") and a potential OU 3 area and totaling over two linear miles of mixed industrial/commercial/residential property located along the Blackstone River in the towns of Cumberland and Lincoln, Rhode Island. The Site includes, *inter alia*, the SWT Property, the Nunes Transfer Station, the P&W Property, and the Unnamed Island.

cc. "State" shall mean the State of Rhode Island.

dd. "SWT Property" shall mean the two parcels described by the Cumberland Assessor's Office and the Cumberland Registry of Deeds as Plat #14, Lot #23 and Plat #34, Lot #249, each of which is owned by Respondent Seaconke Wampanoag Tribe - Wampanoag Nation, Inc. The Town of Cumberland owns a tax title interest in Plat #14, Lot #23 and Plat #34, Lot #249, subject to the SWT's right of redemption, because of non-payment of real estate taxes. Plat #14, Lot #23, which includes the J. M. Mills Landfill, is located entirely within the OU 2 Area. Plat #24, Lot #249, is located primarily within the OU 1 Area, but also spans into the OU 2 Area. Plat #34, Lot #249 contains debris piles that are considered by EPA to be an extension of the J. M. Mills Landfill.

ee. "Unnamed Island" shall mean Plat #12, Lot #12 which is located adjacent to

Peterson/Puritan, Inc. Superfund Site
Docket No. CERCLA 01-2008-0097**Unilateral Administrative Order**

the J. M. Mills Landfill, is an island in the Blackstone River, and is part of OU 2 of the Site. EPA has discovered solid wastes disposed of on the Unnamed Island and believes that the Unnamed Island's soils were used to provide daily cover materials for the Landfill and, perhaps, was even used as an additional disposal location during the time in which the Landfill was operating. The Unnamed Island is owned by J. M. Mills, Inc., the former owner of the J. M. Mills Landfill.

ff. "Waste Material" shall mean: (i) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (ii) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (iii) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (iv) any "hazardous material" under the State of Rhode Island Hazardous Waste Management Regulations.

IV. FINDINGS OF FACT

9. The Site consists of the OU 1 and OU 2 Areas and a potential Operable Unit 3 area totaling over two linear miles of mixed industrial/commercial/residential property. The Site is located along the Blackstone River and includes a portion of the Blackstone River Valley National Heritage Corridor. The Site is located in the towns of Cumberland and Lincoln, in the north-central corner of Rhode Island. The Site is surrounded by industrial, residential, and semi-rural properties. An aerial Site map with the approximate location of the parcels for which this Order pertains is attached as Appendix B.

10. The Site contains many different parcels. EPA believes that the most contaminated parcel is the SWT Property located within the OU 2 Area, where the former J. M. Mills Landfill was located. The J. M. Mills Landfill accepted mixed municipal and industrial waste from 1954 through 1986. A section of the Providence and Worcester Railroad line runs through OU 2 and forms the eastern extent of the Landfill slope while the Blackstone River forms the Landfill's western boundary. The Nunes Transfer Station arranged for waste to be disposed of at the SWT Property. This transfer station was located on the southern portion of the Site.

Respondent

11. The Seaconke Wampanoag Tribe - Wampanoag Nation, Inc. (the "Respondent") is a Rhode Island 501(c)(3) not-for-profit corporation. Its business address is 2220 Warwick Avenue, Apt. H10, Warwick, Rhode Island 02889-3166. Respondent has owned Plat #14, Lot #23 and Plat #34, Lot #249 since December 2006. Wilfred W. Greene is the President of the Seaconke Wampanoag Tribe - Wampanoag Nation, Inc.

Site History

12. On September 8, 1983, EPA included the Site on the Superfund National Priorities List , 40 C.F.R. Part 300, App. B, pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B).

13. An investigation into the extent of contamination at OU 1 was completed in 1993. After evaluating cleanup alternatives, in 1993 EPA selected final cleanup remedies for the OU 1 portion of the Site in a Record of Decision. The remedy for OU 1 includes, inter alia, soil vapor extraction to clean soils surrounding a tank farm, pumping and treating a contaminated groundwater plume emanating from the tank farm, pumping groundwater downgradient from the tank farm into the local sewer system, excavating the leach fields and using in-place oxidation to reduce arsenic concentrations in groundwater. The OU 1 remedy also requires monitoring of contaminant levels in groundwater to ensure that each of the cleanup efforts is effective. In 1995, EPA entered into a Consent Decree with the OU 1 PRP Group for development of the remedial design and performance of the remedial action for OU 1 ("RD/RA").

14. EPA conducted a removal action on the OU 2 Area in 1992, which involved construction of a fence around the former J. M. Mills Landfill and the removal of drums containing contaminated materials from the base of the landfill. In November 1997, a second removal action was conducted at the landfill, which included the disposal of asbestos containing wastes found outside of the fenced-in area. The security fence, which had previously been erected by EPA as part of its response actions in 1992, was extended to limit further dumping and restrict access to the OU 2 Area.

15. Pursuant to the terms of the AOC, the OU 2 PRP Group is under an obligation to pay for and perform the RI/FS for OU 2. As part of the RI, the OU 2 PRP Group will, inter alia, characterize the Site conditions, determine the nature of the waste and the extent of contaminant migration, assess the risk to human health and the environment, and conduct treatability testing to evaluate the potential performance and cost of the treatment technologies that are being considered. As part of the FS, the OU 2 PRP Group will, inter alia, develop and evaluate various cleanup alternatives and develop a proposed plan for the cleanup of the OU 2 Area. The remedial plan for OU 2 is likely to include reconfiguration, consolidation and capping the entire Landfill. Institutional controls may also be placed on the property which protect the integrity of the Landfill cap and prohibit the use, or alteration, of groundwater at OU 2.

Endangerment

16. The response actions taken at the Site and planned for the Site, including, inter alia, those actions that need to be taken to investigate the contamination at the OU 2 Area and determine an appropriate remedy for OU 2, are necessary to abate the potential danger to public

health and/or the environment posed by the release or threat of release of hazardous substances at the Site. Samples taken from the Site indicate the presence of volatile organic contaminants (including, but not limited to, trichloroethylene, freon 11, 1,2-dichloroethene, 1,1,1-trichloroethane, benzene) and also chromium, nickel, and lead in the groundwater. Contaminants found in the soil and sediment include benzo(a)pyrene, chrysene, indeno(1,2,3+cd)pyrene, bis(2-ethylhexyl)phthalate, aroclors, and asbestos insulation/transite. In addition, soil samples along the Blackstone River have been found to be contaminated with polychlorinated biphenyls, polycyclic aromatic hydrocarbons, and heavy metals. All of these are "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). These hazardous substances were disposed of at the Site. All or some of these hazardous substances have been released or are threatened to be released at the OU 1 area and the OU 2 Area.

17. Based on police reports, conversations between David J. Newton, EPA Remedial Project Manager ("RPM") and Mr. Greene, President of Respondent, and Mr. Newton's observations while at the Site, Respondent is disturbing portions of the Site within the OU 1 and OU 2 Areas in search of scrap metal or as part of other activities. Specifically, Respondent's activities at the Site have included excavating paths and roads beside and onto the Landfill which have further disturbed a soil and vegetative cap at the Site. In addition, Respondent, by its President Mr. Greene, has expressed to Mr. Newton its plans to construct one or more buildings on the Landfill.

18. EPA has documentation indicating that there are many buried drums at the Landfill containing hazardous substances, within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), that could be ruptured during Respondent's excavation activities. EPA's sampling data also demonstrates that hazardous substances are located at the SWT Property (where the Landfill is located) and on adjacent parcels at the Site, including portions of both the OU 1 Area and the OU 2 Area. Activities being conducted by Respondent at the SWT Property and adjacent properties, including efforts to recover, recycle, retrieve or remove scrap metals, the construction of a road on the SWT Property and through adjacent parcels, and the construction of buildings on the SWT Property will interfere with response actions being performed under EPA's oversight pursuant to the Consent Decree and AOC. Respondent's activities may also cause a further release of hazardous substances on the Site and pose a potential risk of bodily harm to those people performing these operations at the Site.

19. Along the base of the Landfill is a security fence installed pursuant to an EPA removal action for the purpose of limiting access and reducing human health risks until EPA completes its remedial activities. During the course of the Respondent's excavation activities, one of the gates to the fence used to limit access to the Landfill has been partially dismantled and has been left open on numerous occasions. Also, located in this area of the Site are approximately 33 monitoring wells and over 30 soil sampling stations that EPA is using to gather sampling data. Respondent's excavation activities and future development plans could damage

sampling stations or interfere with the sampling data from these data monitoring points. Such disturbances may hinder or delay ongoing investigations and require additional sampling to confirm investigative conclusions at some or all disturbed locations.

20. The Site, including the Landfill, is situated in a flood plain of the Blackstone River and is vulnerable to flooding and erosion. Any work by Respondent causing disturbances to the soil at the SWT Property could promote or cause a further release of hazardous substances, within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), to surface areas within the Site or to the Blackstone River.

21. Respondent's activities on the adjacent Nunes Transfer Station have also disturbed hazardous substances. At the Nunes Transfer Station, Respondent's disturbances have included the dragging of steel and iron tankage containing still bottom oils and sludges, containing hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), from their resting place at the corner of the Nunes Transfer Station to the open area of the Nunes Transfer Station. On at least one occasion, Mr. Newton observed that the hatches on one such tank were forced open and that still bottoms had leaked onto the ground surface. These activities have or may cause the release of hazardous substances on the Site and pose a potential chemical contact risk to persons performing work at the Site and to trespassers who may enter the Site.

22. Beginning in November 2007, numerous attempts have been made by EPA to get the Respondent to cease physical activity including, *inter alia*, soil disturbances or preparations for later excavation or development activities, at the SWT Property and adjacent properties located within the boundaries of the Site. On November 9, 2007, Mr. Newton met with Mr. Greene and a representative from one of the PRPs, the Providence and Worcester Railroad, to discuss the need for access to the SWT Property and the P&W Property in order to implement the OU 2 RI/FS. During this meeting, Mr. Newton informed Mr. Greene that excavation activities should not be conducted on the SWT Property because any such activities would interfere with EPA's planned remedial, and remedial-related, activities at the Site and could result in a release of contamination at the Site.

23. On January 10, 2008, EPA met with Mr. Greene and his attorney, Lesley S. Rich, at the offices of the RIDEM in Providence, Rhode Island. During this meeting, Mr. Greene expressed his desire to develop the SWT Property.

24. On January 23, 2008, Ms. Lauterback spoke with Mr. Rich about the need for EPA to obtain access to the SWT Property. During this telephone call, Ms. Lauterback reiterated that Respondent should not be conducting any activities at the Landfill that would interfere with EPA's planned remedial action and other remedial-related activities.

25. On January 29, 2008, policeman Manuel Nunes was on patrol and observed three

men carrying loads of aluminum and walking away from the Nunes Transfer Station, which is part of the OU 2 Area at the Site. The men were using backhoes and pickup trucks while operating at the area to remove metals. The men were given trespass warnings. It was later discovered that these men were operating under the direction of Mr. Greene and the authority of Respondent.

26. On February 4, 2008, Ms. Lauterback contacted Mr. Rich to notify him that Mr. Greene and other members of the Respondent had been dismantling above-ground tanks that contained still bottoms and relocating the tanks within the Nunes Transfer Station. Ms. Lauterback informed Mr. Rich that oil and greases were found oozing into the ground in the area where one tank was relocated. Ms. Lauterback further informed Mr. Rich that the Respondent was removing old vehicles and stripping parts and fluids from old cars within the fenced area on the Nunes Transfer Station property. Ms. Lauterback informed Mr. Rich that the Respondent does not have title to or authority to access the Nunes Transfer Station. Mr. Rich stated that he would discuss these issues with the Respondent. Later that day, Ms. Lauterback sent Mr. Rich an email forwarding a copy of the police report regarding Respondent's activities at the Nunes Transfer Station. By an email message dated February 10, 2008, Mr. Rich acknowledged receipt of the police report.

27. On February 12, 2008, the OU 2 PRP Group sent Mr. Rich a letter expressing their concern over activities that had occurred at the Site. The letter reminded Mr. Rich that hazardous substances are located on the Site. The letter also asked Mr. Greene to cooperate and refrain from moving materials on any portion of the Site because such materials may contain hazardous substances or the act of moving materials may disturb hazardous substances already on the Site.

28. On March 21, 2008, David Newton traveled to the Site to place new locks on three gates in the fence around the J. M. Mills Landfill. (Two locks were placed on each gate. The gate can be opened by opening either of these locks. EPA retained the key to one of the locks on each of the gates and provided Respondent with a key to the other locks on each of these gates.) Upon arrival, Mr. Newton noted that one of the gates was open and the old lock was missing. At this point, Mr. Newton contacted the police. Upon arrival, Patrolman Michael D. Ride accompanied Mr. Newton north along the trail and observed that Mr. Greene and another man were using heavy machinery to excavate and remove metal debris and other material from the Landfill. Mr. Newton explained to Mr. Greene that Respondent needs to work out an agreement with EPA before any work could be conducted on the Landfill. Subsequently, by a letter dated March 24, 2008, Mr. Newton notified Mr. Greene that he should not allow unconditional access to the Landfill by leaving the gates to the Landfill open. The letter further requested that the Respondent not disturb or interfere with the ongoing investigation at OU 2, including the sampling and monitoring stations installed as part of the ongoing RI/FS at OU 2.

29. On April 15, 2008, Ms. Lauterback and David Newton, RPM, spoke by telephone

with Mr. Rich regarding the status of the access agreement. During this conversation, Ms. Lauterback again informed Mr. Rich that the Respondent should not be conducting any excavation or other activities on the Landfill that could cause a release or threatened release of hazardous substances or interfere with EPA's remedial or remedial-related activities.

30. On June 12, 2008, Captain James Coyne of the Cumberland Police Department received a call reporting that someone was removing old trash trucks from Nunes Transfer Station. These trucks were not owned by SWT or any of its employees. Captain Coyne further reported that he stopped Mr. Hugh Perry, one of the operators removing the trash trucks. Mr. Perry told Captain Coyne that he had purchased the trucks from John Greene.² Mr. Perry said that he was told by Wilfred Greene, President of Respondent, that the trucks were owned by Wilfred Greene and needed to be removed. Captain Coyne determined that the trucks were not owned by Wilfred Greene and informed Mr. Perry that Wilfred Greene did not own the Nunes Transfer Station property or the trucks and that the trucks must be returned.

31. On June 17, 2008, EPA sent a letter to Mr. Greene indicating that the Respondent should refrain from certain activities at the Site, such as those related to the removal of scrap metal from the SWT Property, as such activities could cause a further release of hazardous substances and/or interfere with the work being done by EPA and its representatives at the Site. In response to this letter, EPA received a letter from Mr. Greene, on June 30, 2008, stating that he, as President of Respondent, wished to cooperate with EPA. On July 14, 2008, Ms. Lauterback called Mr. Greene to find out whether he was represented by counsel and whether he would be interested in meeting with the EPA case team. Mr. Greene said he was represented on a pro bono basis and was not sure whether he was still represented but wanted to meet with EPA sometime during the week of July 21, 2008. Mr. Greene said he would call Ms. Lauterback with a date and time later that week. He never did so.

32. On March 28, 2009, Patrolman Kenneth Piasecki of the Cumberland Police Department responded to a report that someone was tampering with locks at the Nunes Transfer Station property. Patrolman Piasecki reported that Mr. Greene was at the gate when the patrolman reached the property. Patrolman Piasecki observed locks on the gate earlier that day; however, when he found Mr. Greene at the gate, the locks were no longer present. When questioned, Mr. Greene initially claimed there were no locks on the gate when he had arrived. After further questioning, Mr. Greene produced a cut cable with the missing locks. Mr. Greene admitted removing EPA's lock, arguing that EPA refused to give him a key to what he believed was his property. Mr. Greene informed Patrolman Piasecki that he intended to scrap a trash truck

² The exact relationship between John Greene and Wilfred Greene, President of Respondent, is not clear. Wilfred Greene, however, has two sons who have been working with him on the Site.

at the Nunes Transfer Station and have steel barrels on the property cut up and removed. Patrolman Piasecki reported that Mr. Greene was accompanied by Mr. Robert Aptt, whom Mr. Greene intended to hire to remove scrap iron from the Nunes Transfer Station. Patrolman Piasecki informed Mr. Greene that the patrolman believed the truck was on the Nunes Transfer Station property, and that Mr. Greene could not remove items from or disturb the Nunes Transfer Station property.

33. On April 1, 2009, Captain James Coyne and Patrolman Dennis Hicks of the Cumberland Police Department responded to a report of trespassing at the Nunes Transfer Station property. Captain Coyne reported finding Mr. Greene and Mr. Greene's daughter, Desiree Perry, attempting to have a garbage truck removed from the Nunes Transfer Station property. Using official land records of the Town of Cumberland and a plat map, Captain Coyne demonstrated to Mr. Greene that the Nunes Transfer Station property does not belong to Mr. Greene. Mr. Greene told Captain Coyne that Mr. Greene's tribe owns the property and all of Cumberland. Captain Coyne requested that Mr. Greene contact his attorney to set up a meeting with EPA, the Town, and RIDEM. Mr. Greene assured Captain Coyne that he would contact his attorney and set up a meeting, but Mr. Greene never contacted EPA.

34. On information and belief, Respondents' activities at the Site discussed above, which may cause a release or threat of release of hazardous substances, are likely to be continued in the future unless prohibited by this Order.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

35. Based on the Findings of Fact set forth above, and the Administrative Record supporting this Order, EPA has determined that:

- a. The Site, including Respondent's property, is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- b. The contamination found at the Site (including Respondent's property), as identified in the Findings of Fact above, includes hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
- c. The Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- d. The Respondent is a liable party under one or more provisions of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). The Respondent, Seaconke Wampanoag Tribe – Wampanoag Nation, Inc., is the current owner and operator of a portion of the Site as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20) and within the meaning of Section 107(a)(1)

of CERCLA, 42 U.S.C. § 9607(a)(1).

e. Based on the findings of fact and related information, EPA has a reasonable basis to believe that there may be a release or threat of release of hazardous substances, pollutants or contaminants, within the meaning of Sections 101(22) and 104(e)(1) of CERCLA, 42 U.S.C. §§ 9601(22) and 9604(e)(1), at the Site.

f. Based on the findings of fact and related information, EPA has a reasonable basis to believe that Respondent's activities conducted at the Site may cause a further release or threat of release of hazardous substances, pollutants or contaminants, within the meaning of Sections 101(22) and 104(e)(1) of CERCLA, 42 U.S.C. §§ 9601(22) and 9604(e)(1), at the Site.

g. The continued activities by Respondent, as described in Paragraphs 17 - 34, may cause the actual and/or threatened release of one or more hazardous substances from the Site which may present an imminent and substantial endangerment to the public health or welfare or the environment. The actions required by this Order are necessary to protect the public health, welfare, or the environment.

h. Any interference with EPA's remedy or remedial-related activities at the Site may cause a further release or threat of release of hazardous substances, pollutants or contaminants, within the meaning of Sections 101(22) and 104(e)(1) of CERCLA, 42 U.S.C. §§ 9601(22) and 9604(e)(1), at the Site, and would interfere with EPA's access rights under Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5).

VI. ORDER

36. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record, it is hereby Ordered that the Respondent comply with all provisions of this Order and any modifications hereto, including, but not limited to, all appendices to this Order and all documents incorporated by reference into this Order.

VII. NOTICE OF INTENT TO COMPLY

37. The Respondent shall notify EPA in writing within ten (10) days after the Effective Date of this Order of the Respondent's irrevocable intent to comply with this Order. Failure of the Respondent to provide such notification within this time period shall be a violation of this Order by such Respondent. Such written notice shall be sent to:

David J. Newton
Remedial Project Manager
United States Environmental Protection Agency - Region I
One Congress Street, Mail Code HBO
Boston, MA 02114-2023
(617) 918-1243

And

Michelle Lauterback, Senior Enforcement Counsel
United States Environmental Protection Agency - Region I
One Congress Street, Suite 1100, Mail Code SES
Boston, MA 02114-2023
(617) 918-1774

VIII. REQUIRED ACTIONS

38. The Respondent and its designated assigns, contractors, agents or other representatives shall, at a minimum:

- a. Comply with the measures taken by EPA to prevent unauthorized access to the J. M. Mills Landfill, which is located on the SWT Property. These measures include keeping the access gates to the fence surrounding the J. M. Mills Landfill locked at all times and repairing any damage to the gates and fencing caused by Respondent.
- b. Prior to conducting any of the following activities, obtain EPA's written authorization pursuant to Subparagraph c below:
 - (i) road construction at the Restricted Parcels;
 - (ii) excavation activities at the Restricted Parcels;
 - (iii) use of construction vehicles, such as dump trucks, bulldozers, front-end loaders, weighing over 500 pounds, at the Restricted Parcels;
 - (iv) interfere with any monitoring wells constructed at the Site by EPA or the OU 1 or OU 2 PRP Groups;
 - (v) interfere with or damage any signs, fences, gates, or locks installed by

EPA or the OU 1 or OU 2 PRP Groups at the Site; and

(vi) any other activity that could interfere with or adversely affect the implementation of the OU 2 RI/FS or OU 1 RD/RA, the implementation, integrity, or protectiveness of any other response action activity at or to be performed at the Site, or any other activity conducted at the Site by EPA, its officers, employees, agents, contractors, or other representatives.

c. The Respondent may perform the activities listed in Subparagraph b above if prior written approval from EPA is provided. Any requests to perform these activities shall be submitted in writing to those individuals listed in Paragraph 35 of this Order. If EPA provides written approval of any of these activities with any conditions or restrictions, Respondent shall conduct such activity only in accordance with any such conditions or restrictions.

39. Reporting.

The Respondent shall, at least thirty (30) days prior to the conveyance of any interest in the SWT Property, give written notice to the transferee that the SWT Property is subject to this Order and written notice to EPA of the proposed conveyance, including the name and address of the transferee. The Respondent shall require the transferee to agree to comply with this Order.

IX. DESIGNATION OF REMEDIAL PROJECT MANAGER

40. EPA has designated David Newton as its Remedial Project Manager ("RPM"). Except as otherwise provided in this Order, the Respondent shall direct all submissions required by this Order to RPM Newton at U.S. EPA, Region I, One Congress Street, Suite 1100, Mail Code HBO, Boston, MA 02114-2023 by overnight delivery and/or at (617) 918-1243.

41. EPA has the unreviewable right to designate its RPM for the Site. If EPA redesignates this position, EPA will inform Respondents in writing of the name, address, and telephone number of the new RPM.

X. AUTHORITY OF REMEDIAL PROJECT MANAGER

42. The RPM shall be responsible for overseeing Respondent's compliance with this Order. EPA's RPM shall have the authority lawfully vested in a RPM by the NCP, 40 C.F.R. Part 300, or any similar provisions in future amendments or revisions to the NCP including the authority to direct any other remedial actions or remedial-related actions undertaken at the Site.

XI. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

43. In the event of any release of a hazardous substance from the SWT Property caused by Respondent that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, the Respondent shall take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify the RPM or, in the event of his unavailability, the Regional Duty Officer at (617) 918-1224 and the National Response Center at (800) 424-8802, of the incident or Site conditions.

44. In the event that Respondent fails to take appropriate response actions as required by this Section, and EPA takes the actions instead, Respondent shall reimburse EPA for all costs of the response actions not inconsistent with the NCP. Respondent shall pay the response costs in the manner requested by EPA within thirty (30) days of Respondent's receipt of demand for payment of the costs incurred.

45. Nothing in the preceding two paragraphs shall be deemed to limit any authority of the United States: a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of hazardous substances on, at, or from the Site; or b) to direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

XII. ENFORCEMENT

46. Violation, failure or refusal to comply with any provision of this Order may subject the Respondent to civil penalties of up to \$37,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1), and the Civil Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121, 40 C.F.R Part 19.4. EPA may seek judicial enforcement of this Order pursuant to Sections 104 and/or 106 of CERCLA, 42 U.S.C §§ 9604 and 9606. The Respondent may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, failure or refusal to comply, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).

XIII. RESERVATIONS OF RIGHTS BY EPA

47. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, hazardous or solid waste on, at, or from the Site, pursuant to CERCLA or any other applicable law. Furthermore, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it

deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

48. EPA reserves the right to bring an action against Respondent under section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order and not reimbursed by Respondent. This reservation shall include but not be limited to past costs, direct costs, indirect costs, the costs of oversight, the costs of compiling the cost documentation to support the cost demand, as well as accrued interest as provided in section 107(a) of CERCLA.

49. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA, and any other applicable statutes or regulations.

XIV. OTHER CLAIMS

50. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of the Respondent. The United States and EPA shall not be deemed a party to any contract entered into by the Respondent or its directors, officers, employees, members, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

51. Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondent or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

52. Nothing in this Order constitutes a decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

53. No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XV. ACCESS TO INFORMATION

54. The Respondent shall, upon request by EPA, provide copies or make available for copying all documents and information within Respondent's possession or control or that of its contractors or agents relating to Respondent's activities at the Site or to the implementation of this Order.

55. The Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Order to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has notified the Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to the Respondent. The Respondent shall segregate and clearly identify all documents or information submitted under this Order for which the Respondent asserts business confidentiality claims.

56. The Respondent may assert that certain documents, records or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA and the State with the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of the author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the contents of the document, record, or information; and (f) the privilege asserted by the Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

57. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents evidencing conditions at or around the Site.

XVI. RECORD RETENTION

58. Until ten (10) years after the Effective Date of this Order, the Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to Respondent's activities at the Site. Until ten (10) years after the Effective Date of this Order, the Respondent shall also instruct its contractors and agents to preserve all non-identical copies of records and documents (including records or documents in electronic form) and any additional information of whatever kind, nature or description relating to Respondent's activities at the Site.

59. At the conclusion of this document retention period, the Respondent shall notify EPA and the State at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA or the State, the Respondent shall deliver any such records or documents to EPA or the State. The Respondent may assert that certain documents, records or other information are

privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondent asserts such a privilege, it shall provide EPA or the State with the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of the author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

XVII. MODIFICATIONS

60. No informal advice, guidance, suggestion, or comment by the RPM or other EPA representatives shall relieve the Respondent of its obligation to comply with all requirements of this Order, unless it is formally modified.

XVIII. ADMINISTRATIVE RECORD

61. EPA shall establish an Administrative Record which contains the documents that form the basis for the issuance of this Order. No later than 30 days after this Order is mailed to Respondent, the Administrative Record shall be made available for review by appointment on weekdays between the hours of 8:00 a.m. and 4:00 p.m. at the EPA offices in Boston, Massachusetts by contacting the Region I Records Center, at (617) 918-1440. To review the Administrative Record, please call the Records Center to make an appointment. Similarly, copies of the Administrative Record will be provided to the Cumberland Public Library at 1464 Diamond Hill Road in Cumberland, Rhode Island and the Lincoln Public Library at 145 Old River Road in Lincoln, Rhode Island.

XIX. OPPORTUNITY TO CONFER

62. Within three (3) days after issuance of this Order, the Respondent may request a conference with EPA, on any matter pertinent to this Order, including its applicability, the factual findings and the determinations upon which it is based, the appropriateness of any actions the Respondent is ordered to take, or any other relevant and material issues or contentions which the Respondent may have regarding this Order. Any such conference shall be held no later than three (3) days before the Effective Date unless extended by written agreement of the Parties.

63. The Respondent may appear in person or by an attorney or other representative at the conference. Respondent may also submit written comments or statements of position on any matter pertinent to this Order no later than the time of the conference, or at least three (3) days before the Effective Date of this Order if the Respondent does not request a conference. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order,

and does not give the Respondent a right to seek review of this Order. Any request for a conference or written comments or statements should be submitted to:

Michelle Lauterback, Senior Enforcement Counsel
United States Environmental Protection Agency - Region I
One Congress Street, Suite 1100, Mail Code SES
Boston, MA 02114-2023
(617) 918-1774

XX. SEVERABILITY

64. If a court issues an order that invalidates any provision of this Order or finds that the Respondent has sufficient cause not to comply with one or more provisions of this Order, the Respondent shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XXI. APPENDICES

65. The following appendices are attached to and incorporated into this Order:

“Appendix A” is the Cumberland Assessor’s Plat Maps 12, 13, 14, 15 and 34.
“Appendix B” is an aerial map of the Site.

XXII. EFFECTIVE DATE

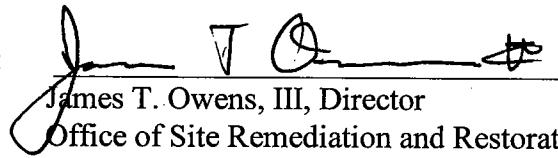
66. This Order shall be effective ten (10) days after the Order is signed by the Director, Office of Site Remediation, Region I, or his delegatee unless modified in writing by EPA or a conference is timely requested as provided above. If a conference is timely requested, then at the conclusion of the conference or after the conference, if EPA determines that no modification of the Order is necessary, the Order shall become effective immediately upon notification by EPA of such determination. If modification of the Order is determined by EPA to be necessary, the Order shall become effective upon notification by EPA of such modification. Any EPA notification under this paragraph may, at EPA’s discretion, be provided to the Respondent by facsimile, electronic mail, or oral communication; provided that if EPA does use such a form of notification, it will also confirm such notification by first class, certified or express mail to Respondent or its legal counsel. Any amendment or modification of this Order by EPA shall be made or confirmed in writing.

Peterson/Puritan, Inc. Superfund Site
Docket No. CERCLA 01-2008-0097

Unilateral Administrative Order

It is so ORDERED.

BY:



James T. Owens, III, Director
Office of Site Remediation and Restoration

Region I
U.S. Environmental Protection Agency

DATE: April 16, 2009

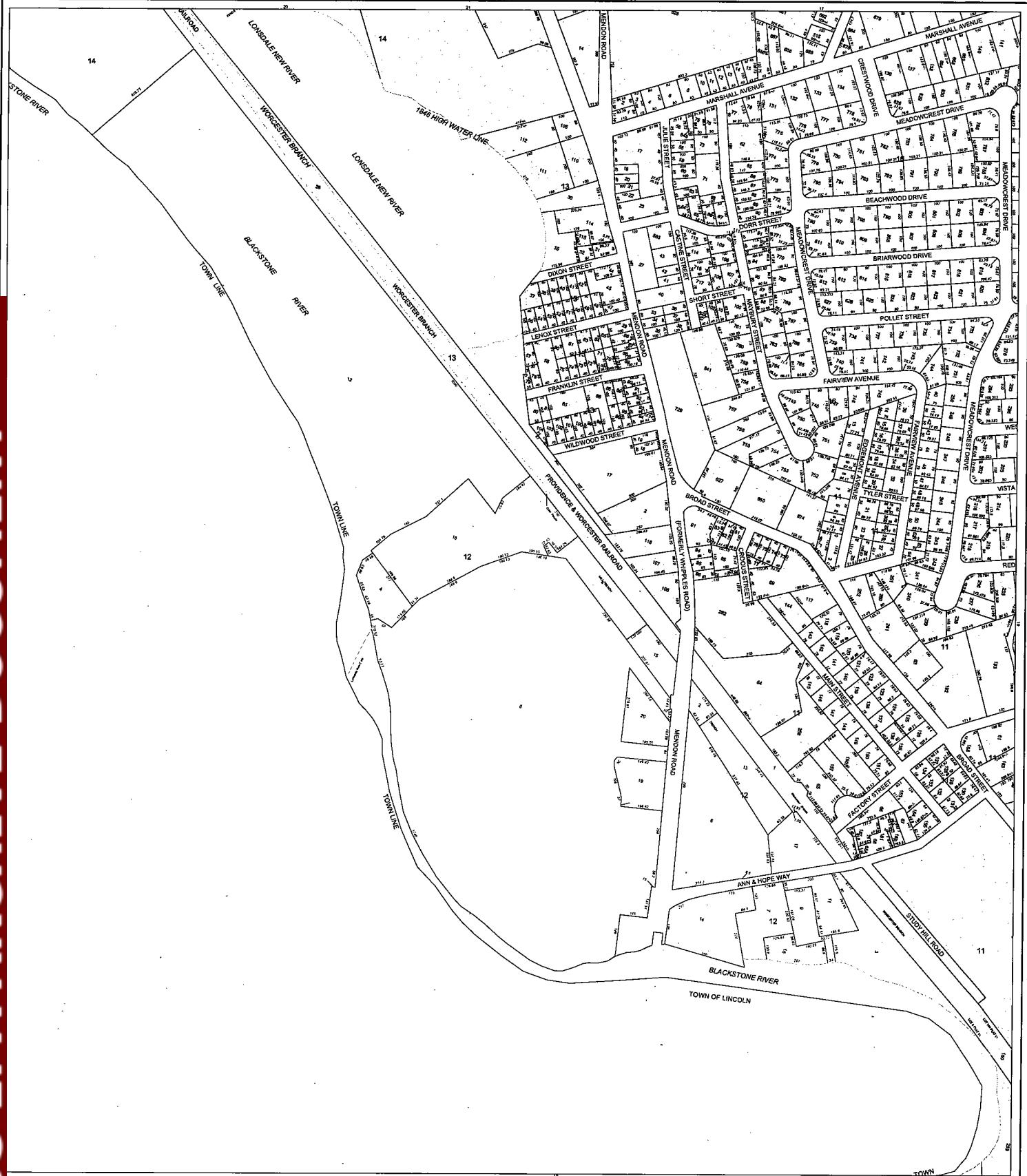
APR 27 2009

EFFECTIVE DATE: _____

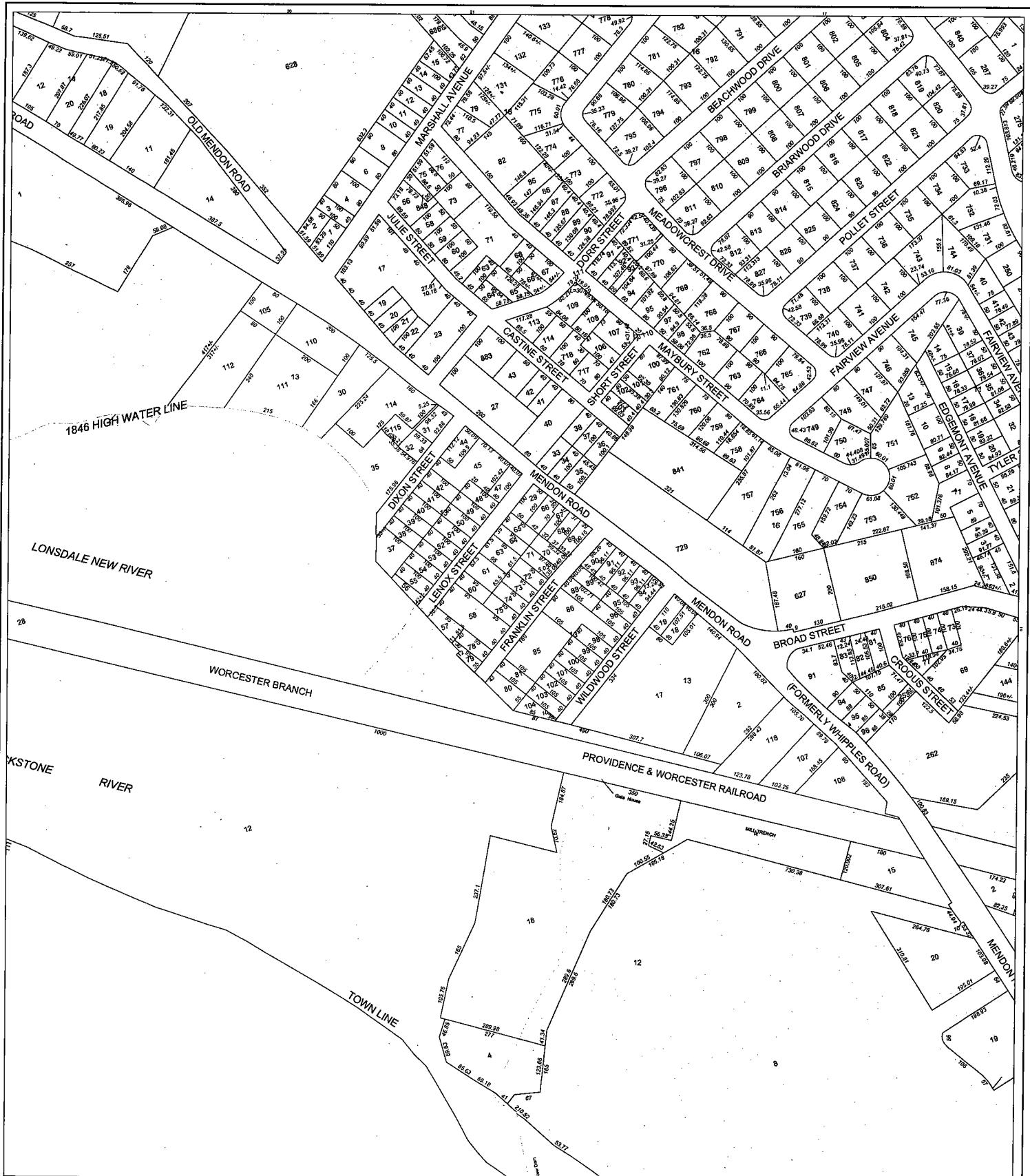
Administrative Order for Response Action:
Operable Units 1 and 2 of the
Peterson/Puritan, Inc. Superfund Site

Appendix A

Town of Cumberland's Assessors Plat Maps 12, 13, 14, 15 and 34

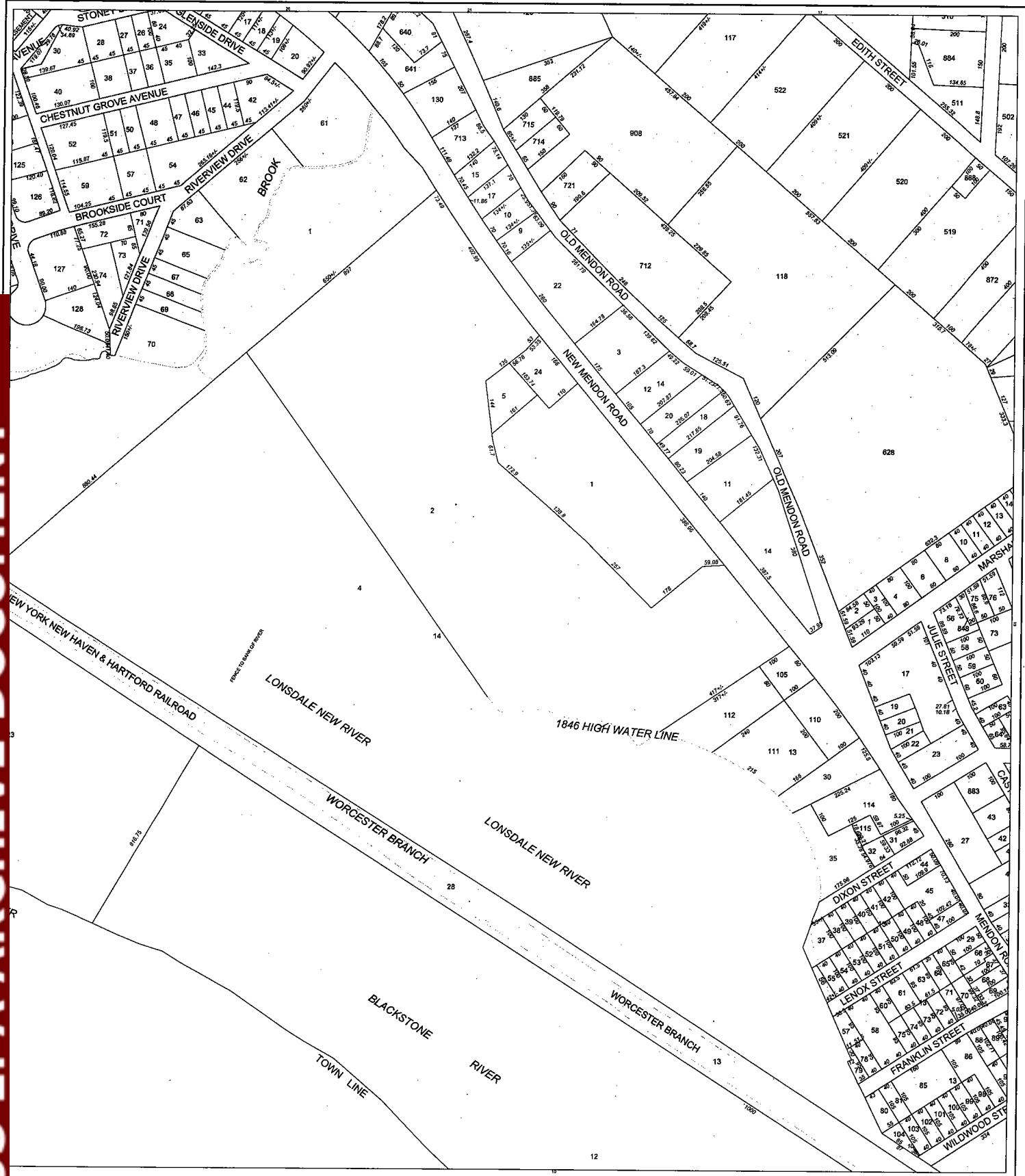


12
Town of Cumberland,
Rhode Island
Assessors Plat

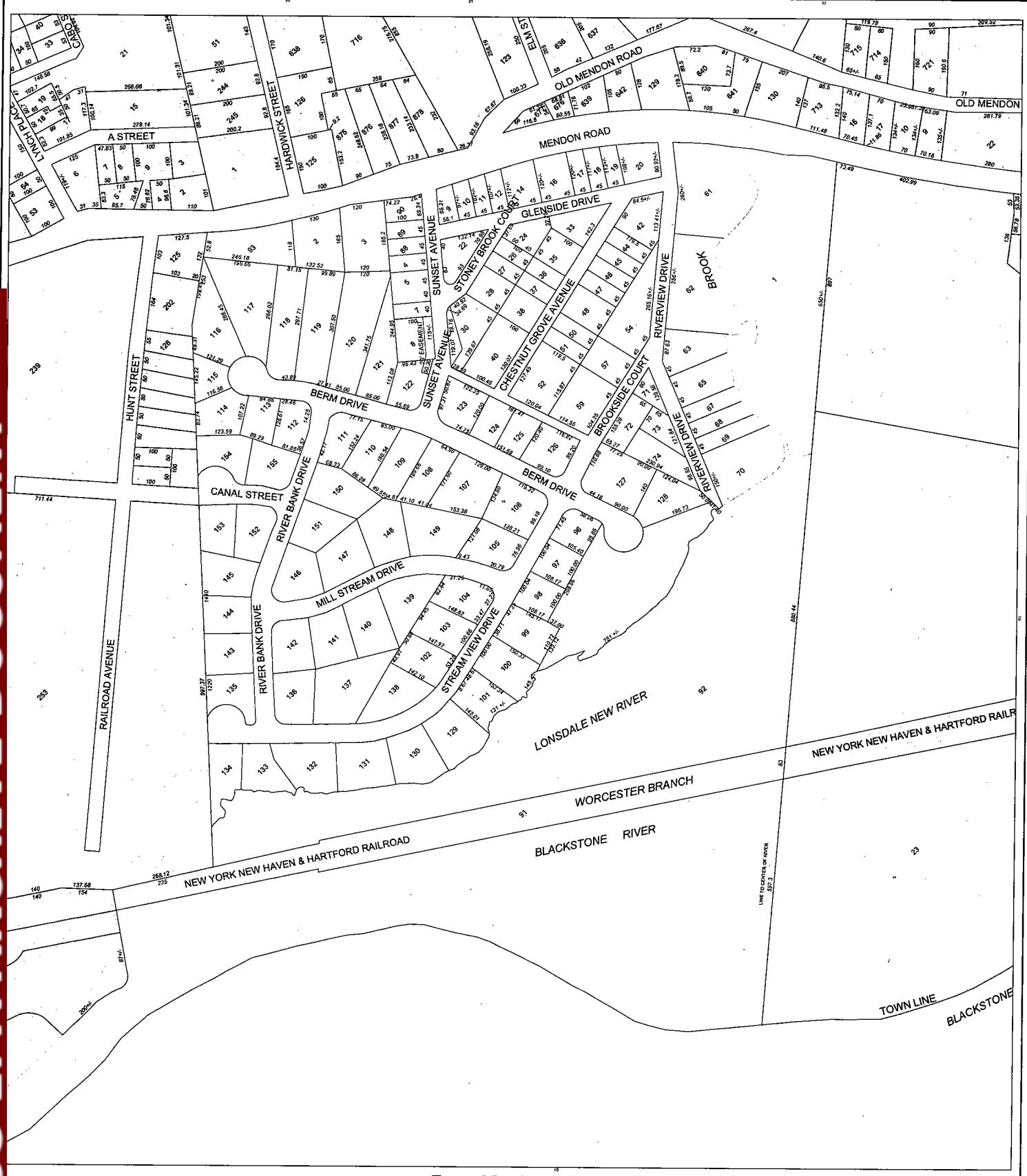


Town of Cumberland,
Rhode Island
Assessor's Plat

13



10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
5010
5011
5012
5013
5014
5015
5016
5017
5018
5019
5020
5021
5022
5023
5024
5025
5026
5027
5028
5029
5030
5031
5032
5033
5034
5035
5036
5037
5038
5039
5040
5041
5042
5043
5044
5045
5046
5047
5048
5049
5050
5051
5052
5053
5054
5055
5056
5057
5058
5059
5060
5061
5062
5063
5064
5065
5066
5067
5068
5069
5070
5071
5072
5073
5074
5075
5076
5077
5078
5079
5080
5081
5082
5083
5084
5085
5086
5087
5088
5089
5090
5091
5092
5093
5094
5095
5096
5097
5098
5099
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
50161
50162
50163
50164
50165
50166
50167
50168
50169
50170
50171
50172
50173
50174
50175
50176
50177
50178
50179
50180
50181
50182
50183
50184
50185
50186
50187
50188
50189
50190
50191
50192
50193
50194
50195
50196
50197
50198
50199
50100
50101
50102
50103
50104
50105
50106
50107
50108
50109
50110
50111
50112
50113
50114
50115
50116
50117
50118
50119
50120
50121
50122
50123
50124
50125
50126
50127
50128
50129
50130
50131
50132
50133
50134
50135
50136
50137
50138
50139
50140
50141
50142
50143
50144
50145
50146
50147
50148
50149
50150
50151
50152
50153
50154
50155
50156
50157
50158
50159
50160
5016



Town of Cumberland,
Rhode Island
Assessors Plat
15



1
Town of Cumberland,
Rhode Island
Assessors Plat

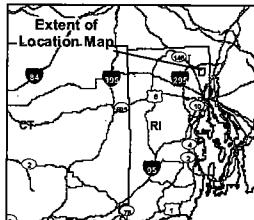
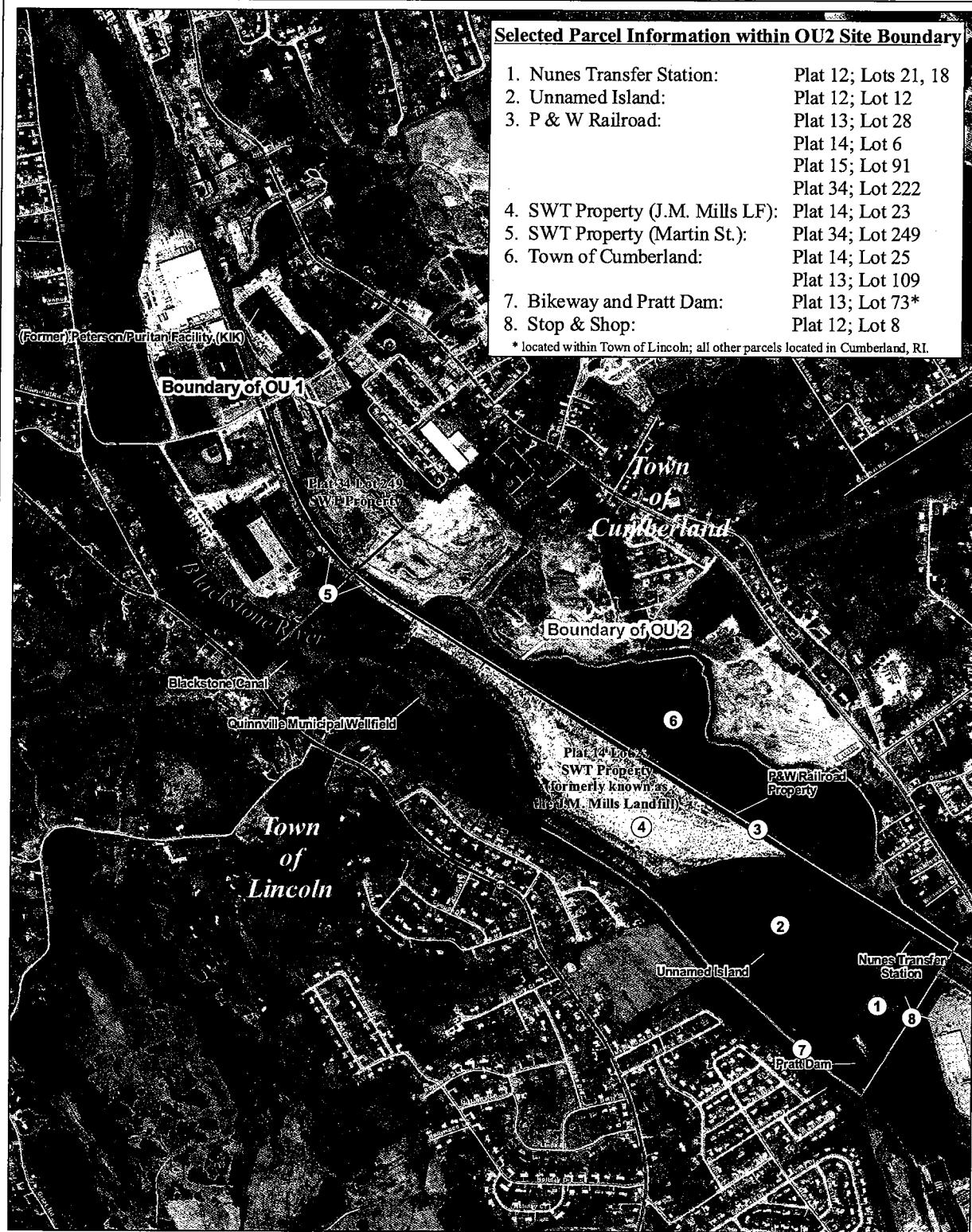
34

Legend
Parcels
Elements
Edge of Printed
Water Bodies

Administrative Order for Response Action:
Operable Units 1 and 2 of the
Peterson/Puritan, Inc. Superfund Site

Appendix B

Aerial Map of the Site



Location of Restricted Parcels Within Peterson/Puritan, Inc. Superfund Site Cumberland & Lincoln, Rhode Island



United States
Environmental Protection
Agency New England

Map created by the EPA Region 1 GS Center
MapTracker ID: 5587
April 16, 2009

0 1,000 Feet



Notes:

Legend

- Existing P&W Railroad Track
- Proposed P&W Railroad Track
- Existing Fence
- Operable Unit 1
- Operable Unit 2

RESTRICTED PARCELS

- Seacombe Wampanoag Properties
- P&W Property
- Nunes Transfer Station
- Unnamed Island

1. Boundaries depicted are estimated and are for general descriptive purposes only.
2. OU1 includes the Quinnville wellfield as a receptor of OU1 groundwater contaminants.

7007 0220 0000 7574 2465

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com ®	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
4/16/09	
Postmark Here	
Total	Wilfred Greene, President Seaconke Wampanoag Tribe
Sent To	Wampanoage, Nation, Inc.
Street or P.O.	2220 Warwick Avenue, Apt. H10 Warwick, RI 02889-3166
City, St.	

PS Form 3800, August 2006 See Reverse for Instructions