

# DRAFT MEMO: To Board of Selectmen

## **July 16, 2018 Meeting with DEP Central Regional Staff**

Today four Department Heads and I met with DEP staff to learn more about the Interim Policy on the Re-Use of Soil in Large Reclamation Projects (Policy#COMM-15-01).

I will attempt to summarize the significant points discussed today, we as a team have not had an extensive time period to review what was discussed, but I believe this to be the significant points.

This policy is a voluntary effort on the part of the landowner to have their site designated with MassDEP approval through an Administrative Consent Order. If the landowner receives approval from the MassDEP, he/she can receive soils with the restrictions posed by the DEP.

For the landowner to receive this designation he/she has to meet the criteria of the Policy. One aspect of the Policy is to have approval from the town. This approval would deal with issues we have already identified such as soil contamination, proximity to water resources, flood plains, resident concerns, infrastructure, zoning, and financial burdens. Much of this would deal with Soil Management Plan.

The policies that we as a town develop must be created in a legal process that can be upheld in a court of law. That is why I have solicited Special Town Counsel Service proposals from law firms who have a variety of expertise and experience in environmental and land use issues. The process is key to success, actions have to be defensible.

There is no formal application by the landowner for designation of Administrative Consent Order, it is an ongoing process that includes constant review of submittals by the landowner. This process has started with the DEP and landowner.

There is no appeal process and no process to file as an intervener. MassDEP works with the Town as an entity in the approval process. It was made clear that the town has the right to submit non-supportive documents which if legal and appropriate will not allow project to move forward.

An encouraging statement by DEP, presently, landowners attempting to secure this Administrative Consent Order must abide by regulations of the town, and these regulations have been approved in several towns after the submittal of the proposal.

**Note:** Soil Reclamation projects do exist without Administrative Consent Orders, these are run at the risk of the landowner and are not the preferred sites of many institutional construction projects. It would be the sole responsibility of the town to monitor these sites and/or control their existence.

DEP will work with the administration of the town to answer questions regarding the Administrative Consent Order process. We have developed a team of Department Heads: Conservation, Health, Engineering, Building and Codes Enforcement, and Town Administrator. Our plan is to continue to work with DEP and Special Town Counsel to inform appropriate Boards of the actions that need to be taken to maintain the quality of life the residents of Pepperell desire.