

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

LAND COURT
CIVIL ACTION NO. 19MISC000081

THE BOARD OF SELECTMEN FOR THE
TOWN OF PEPPERELL,
Plaintiff

v.

ZONING BOARD OF APPEALS FOR THE
TOWN OF PEPPERELL, and MARK G.
WALSH, ANNETTE R. MCLEAN, SEAN E.
MCCAFFERY, ALAN LEO, JR. in their
capacity as members of the ZONING BOARD
OF APPEALS and MASS COMPOSTING
GROUP, INC.
Defendants

PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANT MASS COMPOSTING
GROUP, INC.

Pursuant to the provisions of Rule 33 of the Massachusetts Rules of Civil Procedure, the Plaintiff, the Board of Selectmen for the Town of Pepperell, requests the Defendant, Mass Composting Group, Inc., answer the following interrogatories in writing and under oath within forty-five (45) days following receipt.

Definitions

1. The term "Board of Selectmen" refers to the Plaintiff, the Board of Selectmen for the Town of Pepperell, and includes all of its agents, employees and members.
2. The term "Building Inspector" refers to the Town of Pepperell's Building Inspector / Zoning Officer.
3. The term "communication" means the transmittal of information (in the form of facts, opinions, ideas, inquiries or otherwise).

4. The terms “concern” and “concerning” mean connected with, constituting, describing, evidencing, involving, pertaining to, referring to, relating to or regarding.

5. The term “document” is synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

6. The term “Proposal” refers to the MCGI’s Proposal for a Soil Reclamation Facility at 161 Nashua Road, Pepperell, Massachusetts submitted to the Board of Selectmen for the Town of Pepperell on or about June 28, 2018, and includes any proposed revisions to the Proposal.

7. The term “Site” refers to 161 Nashua Road, Pepperell, Massachusetts, the property at issue in MCGI’s Proposal.

8. The term “TERRA” refers to TERRA Environmental LLC, and includes all of its agents, employees, officers, managers, successors and assigns.

9. The terms “you,” “your” and “MCGI” refer to the Defendant, Mass Composting Group, Inc., and includes all of its agents, employees, officers, managers, successors and assigns.

10. The term “Zoning Bylaw” refers to the Town of Pepperell Zoning Bylaw.

Interrogatories

Interrogatory No. 1. Please identify yourself, including as part of your identification, your full name, date of birth, residential and business address, title and occupation.

Interrogatory No. 2. Identify all persons who allegedly are witnesses to any occurrence, events, facts or circumstances concerning any of the allegations of the Plaintiff’s Complaint or MCGI’s Answer, including, as part of your identification, the name and most current address and

specifying to what occurrence, event, fact or circumstance each such person has witnessed and which of such witnesses you expect to testify at trial.

Interrogatory No. 3. Please identify the name and address of each person whom you expect to call as an expert witness on your behalf at trial, and with respect to each such person please state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of the facts and opinions to which each such expert is expected to testify; and
- c. a summary of the grounds of the opinions of each such expert.

Interrogatory No. 4. State the name, address and telephone number of any person, other than counsel, with whom you have communicated, whether orally or in writing, concerning your answers to these interrogatories, and identify the date, location and a description of the substance of the communication.

Interrogatory No. 5. Identify all documents reviewed, cited or relied upon in preparing your Answers to Interrogatories

Interrogatory No. 6. Please state whether you or anyone on your behalf has had oral or written communications with any agents, officers, officials or employees of the Town of Pepperell, including but not limited to the Board of Selectmen, the Building Inspector and the Zoning Board of Appeals, concerning the Site or the Proposal, and if so please, describe such communications, including the date, time, method of communication, location, who was present, and the substance of the communication.

Interrogatory No. 7. Please state whether you or anyone on your behalf has had oral or written communications with any abutters or area residents concerning the Site or the Proposal,

and if so please describe such communications, including the date, time, method of communication, location, who was present, and the substance of the communication.

Interrogatory No. 8. Please state whether you or anyone on your behalf has had oral or written communications with the Massachusetts Department of Environmental Protection concerning the Site or the Proposal, and if so please describe such communications, including the date, time, method of communication, location, who was present, and the substance of the communication.

Interrogatory No. 9. Please describe all communications concerning the preparation, publication and submission of the Proposal, including the date, time, method of communication, location, who was present, and the substance of the communication.

Interrogatory No. 10. Please describe any investigation, research or studies performed by TERRA or any other consultant or third party concerning the Proposal or the Site, including but not limited to investigation, research or studies related to zoning, septic, wastewater, wetlands, rivers, streams, stormwater, drainage, drinking water, groundwater, wells, endangered species, soil, Site access, ingress and egress, noise, traffic, vibration, dust and any other potential impacts, health, safety, environmental or otherwise.

Interrogatory No. 11. Did you file an Information Request with MassWildlife's Natural Heritage & Endangered Species Program to determine if any rare species are living on or near the Site as proposed by Oxbow Associates Inc., and if so, please describe the response.

Interrogatory No. 12. Please describe all oral or written communications with TERRA concerning the Proposal and/or the Site, including the date, time, method of communication, location, who was present, and the substance of the communication.

Interrogatory No. 13. Please describe all oral or written communications with any other third parties or consultants concerning the Proposal and/or the Site, including the date, time, method of communication, location, who was present, and the substance of the communication.

THE BOARD OF SELECTMEN FOR THE
TOWN OF PEPPERELL

By its attorneys,




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Phone: (508) 791-8500
Fax: (508) 983-6273

Dated: July 17, 2019

CERTIFICATE OF SERVICE

I, David K. McCay, hereby certify that I have this day served a copy of the foregoing document, by mailing a copy, first class mail, postage prepaid, to Robin L. Main, Esq., and Rhiannon A. Campbell, Esq., Hinckley, Allen & Snyder, LLP, 28 State Street, Boston, MA 02109-1775 and David J. Doneski, Esq. and A. Alexander Weisheit, Esq., KP Law, P.C., 101 Arch Street, 12th Floor, Boston, MA 02110-1109.



David K. McCay, Esq.

Dated: July 17, 2019