

Soil Reclamation Project Proposal
Summary and Timeline



Revised April 10, 2020

Since the last revision, 4 documents have been added.

1. On October 24, 2019 the Town received a letter from MCGI seeking an Administrative Consent Order for the project.
2. On December 10, 2019 the Town of Pepperell sent a letter to MCGI in response to the October 24, 2019 letter.
3. On February 7, 2020, MCGI sent a letter to MassDEP.
4. On February 26, 2020, MassDEP responded to MCGI's letter dated February 7, 2020.

Revised September 23, 2019

Since the last revision, the parties filed a joint motion on September 23, 2019 to extend the discovery period until November 30, 2019.

House bill H.875 was loaded for reference on August 30, 2019. The bill hopes to strengthen MassDEP's control of soil reclamation projects.

A Pepperell Community Media video of an August 19, 2019 information event held at the Nissitissit Middle School by the Pepperell Watcher's Group is linked here.

Revised August 14, 2019

Added three documents.

1. MCGI meeting summary – two MCGI representatives met with Town staff and a BOS member on August 5th.
2. Discovery Questions – demographic type questions for the defendant
3. Discovery Questions – interrogative type questions for the defendant

Updated on July 1, 2019

The Town of Pepperell wishes to be diligent about keeping residents up to date on the proposed Soil Reclamation Project and we realize that there is a lot of information to consider. Through the Town webpage, on Town and private social media, and various other formats, we want to ensure that accurate information is available. To that end, we have created this summary document which will be updated regularly. Most importantly, we want to ensure the residents of Pepperell that the Town's position has not changed – the Town is adamantly opposed to the proposed project.

For some time, the owners of the property known locally as ‘161 Nashua Road’ have been interested in its re-development. Various ideas have been proposed formally and informally. On October 25, 2017 owner representatives met with the Pepperell Town Administrator to discuss one such idea. Subsequently, a meeting was held on December 5, 2017 with the owner representatives, the Town Administrator and the Town Planner. According to an email from May 4, 2018, the Town Administrator told the representatives at the December 5, 2017 meeting that the proposed project was a ‘non-starter.’

On February 12, 2018, Terra-Environmental, representing the owners, sent a 16 page project overview and in it requested a letter of support from the Town of Pepperell for a soil reclamation project. On April 25, 2018, a citizen inquired about the project which had not yet been announced to the Board of Selectmen or the general public. By April 30, 2018, the Town Administrator and other staff members had responded that no proposals or Notices of Intent had been filed. By May 4, 2018, when the February 12, 2018 project overview was made public, it created concerns that a lot of planning seemed to be happening over a length of time, with limited public disclosure.

Ultimately, a formal proposal was brought to the Town of Pepperell by MCGI, Inc. in July of 2018 at which point the Town hired legal counsel to guide us through the proposal and to assist us in making educated, well-informed decisions that protect the citizens of Pepperell for both current and future generations. It became clear at the public presentation in August of 2018 where the residents stood in respect to the proposed project and since that time the Town has received, reviewed and shared with the public documents about the project and in support of the Town’s concerns.

A lot of time has passed since the original proposal and the town is mindful of the resident’s concerns regarding this proposed project. MCGI believes they can do the soil reclamation they have proposed as of right; the Town disagrees. MCGI has indicated that they won’t proceed without an Administrative Consent Order (ACO) and MassDEP will not issue an ACO without the Town of Pepperell’s agreement. The Town has made it clear to MassDEP it will not agree. Several Town departments have sent letters of opposition to MassDEP and MCGI.

In October 2018, the Town of Pepperell Building Inspector issued a response to a Board of Selectmen query about the allowed uses on the 161 Nashua Road site. The Inspector advised that a ‘Commercial Waste Dump’ is not an allowed use anywhere in Pepperell and that based on the information then available, the proposed project constituted a Commercial Waste Dump. The proponent of the project disagreed and appealed to the Zoning Board of Appeals (ZBA). The ZBA, is part of our local government, but should, and does, act on its own accord. The ZBA, overturned the Building Inspector advice but this was limited in that it turned on MCGI’s argument that what they were proposing was NOT a commercial waste dump. The Town and a group of local abutters each appealed the ZBA decision to the Massachusetts Land Court. The judge assigned to the appeals combined the cases in April and has asked for input on out of court settlement possibilities by June 28, 2019. On June 28, 2019, the following statement was entered into the record at Land Court:

JOINT STATEMENT CONCERNING MEDIATION

The parties in the above-captioned, consolidated cases report that they have conferred and do not believe that mediation or other alternative dispute resolution would be productive at this stage of the proceedings.

The next formal court date is September 30, 2019.

The Town of Pepperell wants to reassure the public that, as decisions are made and documents created or received, we are posting the information on our website. If the developer tries to proceed with this project, the Town has actions it can take to halt the progress.

To reiterate, the Town of Pepperell does not support this Project and we are providing information as it becomes available to us. The Board of Health adopted Fill Importation Regulations in December of 2018. The Board of Selectmen have made their stance clear in public and in two written documents to MassDEP. The Board of Selectmen also continue to provide updates at each of their regularly scheduled meetings.

Below is also a table of the timeline of events and documents that have occurred with this project. The complete documents can be found on the Town of Pepperell webpage:

<https://town.pepperell.ma.us/566/4080/Soil-Reclamation-Proposal>

We thank you for your continued interest in this proposal and assure you we will keep you informed of any and all matters related to this proposal.

| Date | Information Updated |
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| 10/25/2017 | <ul style="list-style-type: none"> • Town Administrator meets with Property Representatives |
| 12/05/2017 | <ul style="list-style-type: none"> • Town Administrator and Town Planner meet with Property Representatives |
| 02/12/2018 | <ul style="list-style-type: none"> • Terra-Environmental provides Town Administrator with Project Overview and asks for a Letter of Support from the Town |
| 04/30/2018 | <ul style="list-style-type: none"> • Town Administrator indicates there is no application / proposal before the Town. |
| 05/04/2018 | <ul style="list-style-type: none"> • February 12, 2018 Project Overview and request for Letter of Support is made public. • Town Administrator tells BOS that he told the owner on 12/05/2017 that the project was a ‘non-starter.’ |
| 07/16/18 | <ul style="list-style-type: none"> • Draft Meeting Discussion with MassDEP |
| 07/26/18 | <ul style="list-style-type: none"> • Document summarizing MCGI’s approach for the reclamation of the 50 acre quarry site • Soil Reclamation Legal Opinion Questionnaire |
| 07/30/18 | <ul style="list-style-type: none"> • Department of Environmental Protection – Review of Soil Management Plan |
| 08/7/18 | <ul style="list-style-type: none"> • Announcement of Public Presentation on 8/20/18 |
| 08/20/18 | <ul style="list-style-type: none"> • Public Presentation – Pepperell Senior Center – 7:15PM • Video available on www.pepperellchannel.org |
| 09/18/18 | <ul style="list-style-type: none"> • DEP Letter Review of Soil Management Plan • MCGI Soil Management Plan letter to Attorney Main |
| 09/20/18 | <ul style="list-style-type: none"> • TERRA memo response to MassDEP Comments |
| 10/1/18 | <ul style="list-style-type: none"> • Letter to BOS regarding Non-Binding Resolution |
| 10/2/18 | <ul style="list-style-type: none"> • Letter from BOS to Building Department – Zoning Determination Request |
| 10/22/18 | <ul style="list-style-type: none"> • Building Inspector's Zoning Determination Letter • Letter to David A. Burton - Zoning Determination Decision • Conservation Commission letter to David A. Burton |
| 11/20/18 | <ul style="list-style-type: none"> • Zoning Board of Appeals – Administrative Appeal by MCGI |
| 11/26/18 | <ul style="list-style-type: none"> • TERRA Environmental Appeal Documents |
| 12/3/18 | <ul style="list-style-type: none"> • Board of Health Letter to BOs & MassDEP |
| 01/9/19 | <ul style="list-style-type: none"> • ZBA Public Hearing Announcement |
| 01/28/19 | <ul style="list-style-type: none"> • Abbreviated Notice of Resource Area Delineation – Plans and Report |
| 01/30/19 | <ul style="list-style-type: none"> • Notice of Decision from ZBA – Administrative Appeal |
| 02/15/19 | <ul style="list-style-type: none"> • BOS letter to MassDEP in opposition to the proposal • Appeal to Massachusetts Land Court of ZBA overturning building inspector decision |
| 03/19/19 | <ul style="list-style-type: none"> • Revised proposal from MCGI • Email to MassDEP regarding new proposal |
| 04/29/19 | <ul style="list-style-type: none"> • BOS Letter to MassDEP in opposition to the revised proposal |

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| 06/28/2019 | <ul style="list-style-type: none"> • Joint Statement submitted to Land Court indicating mediation was not possible at this time |
| 08/14/2019 | <ul style="list-style-type: none"> • Discovery Questions (two documents) |
| 08/14/2019 | <ul style="list-style-type: none"> • Summary of MCGI meeting with Town Administrator, BOS Member, and Planning Staff |
| 08/19/2019 | <ul style="list-style-type: none"> • PWG Information Night video link to Pepperell Community Media |
| 08/30/2019 | <ul style="list-style-type: none"> • House Bill H.875 |
| 09/23/2019 | <ul style="list-style-type: none"> • Joint Motion to extend Discovery to November 30, 2019 (two documents) |
| 10/24/2019 | <ul style="list-style-type: none"> • MCGI Letter to the Town of Pepperell |
| 12/10/2019 | <ul style="list-style-type: none"> • Town of Pepperell response to MCGI |
| 02/07/2020 | <ul style="list-style-type: none"> • MCGI letter to MassDEP |
| 02/27/2020 | <ul style="list-style-type: none"> • MassDEP letter to MCGI |