



Town of Pepperell  
Board of Selectmen  
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April 13, 2020

Mark Baldi, Deputy Regional Director  
Bureau of Waste Site Cleanup  
Commonwealth of Massachusetts  
Department of Environmental Protection  
Central Regional Office  
8 New Bond Street  
Worcester, MA 01606

Re: Proposed Soil Reclamation Project at 161 Nashua Road, Pepperell and MCGI  
Letter Dated February 7, 2020

Dear Deputy Regional Director Baldi,

The Board of Selectmen for the Town of Pepperell was surprised to receive your letter dated February 26, 2020 to William Scott, Jr. of Mass Composting Group, Inc. ("MCGI"), as Mr. Scott neglected to copy the Town or otherwise make the Town aware of his correspondence to you on February 7, 2020. Mr. Scott's letter continues to make assertions that are simply not accurate. Moreover, MCGI's continued repeating of the same issues – which remain unresolved by MCGI – is troubling to the Town. It also demonstrates MCGI's continued failure to: (1) properly consult with the Town in accordance with the Massachusetts Department of Environmental Protection's ("MassDEP") Interim Policy on the Re-Use of Soil for Large Reclamation Projects, Policy # COMM-15-01 ("Interim Policy"); (2) address the Town's environmental concerns due to the proximity of the proposed Site to the Town's Nashua Road Drinking Well, the Nashua River, and nearby residential homes; and (3) comply with the Town's bylaws and regulations, including zoning, conservation and wetlands, and fill importation. We appreciate the opportunity to respond, and to provide you with more accurate information.

1. MCGI's proposed project fails to promote the objectives of the Interim Policy. The purpose of the Interim Policy is to promote the reclamation and reuse of former gravel pits and quarries. MCGI's proposal does no such thing. Although it purports to "restore elevations to pre-quarrying conditions" and "prepare the property for future development," (see MCGI's March 18, 2019 cover letter to Pepperell Town Administrator enclosing the revised Proposal), the project does neither. The proposed grading plan bears no resemblance to and is significantly different and higher than the historic, pre-mining topography of the Site. As Paul Vigeant

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commented in his email to you on June 29, 2018, MCGI's proposed grading plan is "ridiculous." "They are filling a hole, then building a 200 foot mountain on top."

The Town of Pepperell wishes to state that there is no 'hole to fill' on the property. The lowest terrain on the property is approximately level with the lowest areas surrounding the property. In addition, the project is not necessary "to prepare the property for future development." In an October 24, 2019 letter to the Pepperell Town Administrator, MCGI first disclosed that it "recently determined that it will pursue placing a solar farm on the Property." MCGI has advanced no plan or formal proposal for a solar farm at the Site, or any explanation of how the proposed "reclamation" is necessary for a solar farm development. In the Town's view, the objective of the proposed project is to create a landfill in Pepperell for unwanted soils from other sites, not to reclaim the project Site, restore the historic topography, or prepare the Site for a solar farm development.

2. Mr. Scott claims that he and MCGI want "to work cooperatively with all involved, including the Town of Pepperell, if at all possible." The record shows otherwise. MCGI failed to respond substantively to the Town's previous letters/concerns, including not only those of our Board of Selectmen but also our Board of Health and Conservation Commission, as detailed below and in the Town's prior correspondence.
3. Mr. Scott claims he and MCGI want to "develop the Project in strict compliance with applicable law", yet your response to him shows that MCGI has not complied with MassDEP's Interim Policy and the Town's bylaws and regulations. In particular, the Interim Policy provides that nothing in the Interim Policy "eliminates, supersedes or otherwise modifies any local, state, or federal requirements that apply to the management of soil, including any local, state or federal permits or approvals necessary before placing the soil at the receiving location, including but not limited to, those related to placement of fill, noise, traffic, dust control, stormwater management, wetlands, groundwater or drinking water source protection."

The Pepperell Board of Selectmen have pointed out to MCGI on numerous occasions that local permits and approvals for this proposed soil reclamation project *are* required, including from the Board of Health, the Conservation Commission, and others. In addition, the resolution of whether our Town Zoning Bylaws allow this proposed project is still before the Massachusetts Land Court, and the Board of Selectmen are awaiting that decision. Even if a soil reclamation facility were an allowed use under the Zoning Bylaw, it would still require a special permit from the Pepperell Planning Board because the Site is located in the Water Resource Protection Overlay District. MCGI has not obtained or applied for a special permit.

4. Mr. Scott claims that he and MCGI have “appropriately responded to the various issues that the Town of Pepperell has raised by providing additional details regarding control/mitigation for dust, traffic, wetlands, and the like as set forth in detail, for example, in MCGI’s letter to the Town dated October 25, 2019 [sic], which was provided to MassDEP.”

That letter (dated October 24, 2019) failed to address multiple, substantive issues, and the Selectmen responded, again, in exacting detail, on December 9, 2019 describing many of the Town’s concerns. Over four months later, the Town has still not received any substantive reply from MCGI, and our concerns remain unresolved. To this Board, such a lack of response is antithetical to Mr. Scott’s statement that he wants to “work cooperatively with all involved.”

5. Mr. Scott’s suggestion that MCGI’s revised Soil Management Plan is “consistent with soil management plans for other reclamation projects,” even if it were accurate, inspires little confidence for the Town for several reasons. First, MCGI’s revised Plan fails to address the unique environmental characteristics of the Site and its proximity to the Nashua Road Well, the Nashua River and nearby residential properties. Among other things, MCGI has conducted no soil sampling at the Site, it has conducted no hydrogeologic study of the Site, and it has conducted no mounding analysis to determine how the proposed massive importation of soils to the Site would affect groundwater flows and quality to the Nashua Road well site. Second, the compliance history of other reclamation projects gives the Town little reason for optimism. In numerous instances, contaminated soils were brought to the receiving site, third-party inspections were not performed in a timely manner or not performed at all, required reports were not filed or not available, and the projects otherwise become a burden on the host community. Lastly, Mr. Scott’s statement regarding soil management plans for other reclamation projects ignores the requirement that, in order to obtain an Administrative Consent Order, the applicant must also obtain all necessary local permits and approvals.
6. Mr. Scott states that the “RCS-1 and RCS-2 soils proposed for the Project are appropriate for the Project’s location and do not exceed regulatory thresholds and are otherwise not regulated by MassDEP at the MCGI reclamation site.” This statement, however, is completely unsupported by any Site-specific data, testing or analysis. In addition, RCS-1 soils above the MCP reportable concentrations are prohibited at the Site under the Town’s Fill Importation Regulations because the Site is within 1,500 feet of residentially zoned property. See Pepperell Fill Importation Regulations, §1-9. D. MCGI has not applied for or obtained a fill importation permit from the Board of Health.

In addition to each of these troubling misstatements and assertions on the part of Mr. Scott and MCGI, the Board once again reiterates that MCGI has not provided the Town with an opportunity for meaningful input. The Board of Selectmen invited MCGI to present its proposal at a community-wide meeting held on August 20, 2018. At that meeting, MCGI failed to answer almost 75% of the questions asked of them by our Board of Selectmen and the audience. MCGI’s counsel has failed to meet with the Town, as promised. MCGI’s counsel has failed to meet with the Nashua River Watershed Association (NRWA), as promised. NRWA is one of the stewards of our federally protected “Wild and Scenic” Rivers, the Nashua River, which abuts the Site. The NRWA has also opposed MCGI’s proposed reclamation project because of its environmental risks to the community and the Nashua River. Even something as simple as MCGI’s promise to make its PowerPoint presentation from August 20, 2018 available for posting on the Town’s website has not been honored.

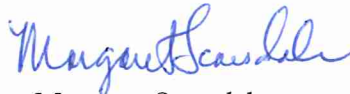
Lastly, the meeting on August 5, 2019 between Mr. Scott, Philip Petersen (MCGI's LSP for the proposed project), and Town representatives Andrew MacLean, Margaret Scarsdale, Brynn Montesanti, and Lisa Davis, continues to concern us. In that meeting, Mr. Petersen was asked if the newest soil reclamation site for which he is LSP – Groveland – had any issues or penalty letters. Mr. Petersen replied "No." When told there were two penalty letters (one for each of the first two months of this project) for failing to file monthly reports in a timely manner, Mr. Petersen suddenly remembered that there had been two penalty letters but stated they were being appealed. This was not the truth as the Board subsequently learned that \$500 in penalties had already been paid on March 25, 2019, more than four months prior.

In the closing paragraph of his February 7th letter, Mr. Scott said, "We would welcome formal MassDEP oversight [sic] and are ready to enter into an ACO, however we understand that the Town continues to object." As outlined above, the Town remains opposed to the proposed project and continues to object because MCGI has consistently failed to address the substance of the Town's concerns and obtain the necessary permits. As a result, this Board – supported by hundreds of Pepperell citizens, the Board of Health, the Conservation Commission, the Nashoba Conservation Trust, the Nashua River Watershed Association, and numerous Boards of surrounding towns, including in New Hampshire – remains unanimously opposed to this project.

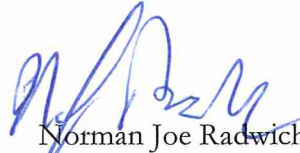
Very truly yours,



William Greathead  
Chair



Margaret Scarsdale  
Clerk



Norman Joe Radwicz  
Member

cc: Andrew MacLean, Town Administrator  
Board of Health  
Planning Board  
Conservation Commission  
Mary Jude Pigsley, MassDEP Regional Director, Central Region  
Nashua River Watershed Association  
Nashoba Conservation Trust  
Mass Composting Group, Inc.  
Robin L. Main, Esq.  
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