



Robert Medeiros, Chairman
David Davignon, Clerk
Thomas J. Fortin, Inspector

Joseph Correia, Health Agent
Patrick Hannon, Assist. Health Agent

COMMONWEALTH OF MASSACHUSETTS
TOWN of ACUSHNET
PARTING WAYS BUILDING
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Office of the
BOARD OF HEALTH

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Wanda Hamer, Senior Clerk
Joann DeMello, Senior Clerk

August 10, 2020

Jonathan Olson
P. J. Keating Co.
72 South Main St.
Acushnet, MA 020743

RE: Cease and Desist Order – 72 South Main Street, Acushnet

Dear Mr. Olson,

On August 7, 2020, the New Bedford District Court granted to the Town of Acushnet an Administrative Search Warrant to conduct an inspection of the P.J. Keating quarry located at 72 South Main Street (the “Property”). As you know, the operation of the quarry is subject to numerous permits and special conditions that the Town requires in order to ensure the health, safety, and welfare of the citizens of the Town of Acushnet.

Pursuant to M.G.L. c. 111, §§ 26-33, Health Boards have the authority to examine into all causes of nuisances within the Town, and to issue orders relative thereto.

On August 8, 2020, at approximately 9:10 a.m., the Town’s Assistant Health Agent, Conservation Agent, and Soil Board Member/Selectman entered the Property to inspect in accordance with the terms of the duly issued Administrative Search Warrant. The town officials on the Property took notice that the site was in operation, crushing equipment was running, trucks were being loaded with product and leaving the Property, and rock trucks were operating in the quarry transporting raw materials to the primary crusher.

Upon further inspection of the Property, the following observations were made:

1. Mining waste (silt) has been dumped and stockpiled in the rear of the property on the eastern side of the power lines.
2. The amount of mining waste/silt that has been dumped and stockpiled is excessive and causing nuisance conditions of Fugitive Dust, Sedimentation, and Erosion.
3. The side slopes of the mining waste/silt are not in compliance with best management practices (BMP) and are contributing to erosion and sedimentation impacts to stormwater and the environment.

4. The stockpiles of mining waste/silt have not been stabilized with any type of erosion control BMP's such as vegetation or erosion control mat contributing to nuisance condition violations.
5. There are no erosion controls protecting the perimeter of the stockpiles from eroding into resource areas and habitat for threatened and endangered species. (NHESP-PH364) causing environmental impacts and violations.
6. The tops of the mining waste/silt have not been stabilized to prevent windblown dust impacts onto adjoining neighborhoods, no BMP's have been deployed as required in the site NPDES and SWPPP causing nuisance conditions and serious dust violations.
7. Further inspection revealed that P.J. Keating has dumped large quantities of asphalt roofing shingles on the ground in the vicinity of the mining waste. P.J. Keating is in violation of the Beneficial Use Determination (BUD) issued by MassDEP to P.J. Keating to accept this solid waste under certain permit conditions.
8. The BUD requires that P.J. Keating only accept asphalt shingles that have been tested for asbestos, Mr. Warren refused to answer any compliance questions, leaving inspectors with no evidence that the asphalt shingles have been tested for asbestos. Post-consumer used asphalt roofing shingles may contain asbestos and require testing to protect human health and the environment from the hazards of asbestosis.
9. The BUD requires P.J. Keating to process/shred the asphalt shingles when the stockpile reaches 25,000 tons, inspectors found multiple stockpiles of unprocessed asphalt shingles exceeding the permit limit of 25,000 tons.
10. The BUD requires P.J. Keating to cover and stabilize all stockpiles of asphalt shingles, inspectors found multiple stockpiles of asphalt shingles with no covering or other means of stabilization to prevent wind blown dust and other nuisance conditions.
11. The BUD requires P.J. Keating to "Keep The Stockpiled Shingles Wetted Down" at all times to prevent windblown nuisance, there was no evidence of any water source in the area, the stockpiles of shingles were extremely dry and the shingles have become friable.
12. The BUD states that asphalt shingles will be stored over two thousand feet (2000') from all property lines. The asphalt shingles are dumped within five hundred twenty-five (525) feet of a residential property, with no covers or moisture control as required by MassDEP.
13. Also, in the same area inspectors observed a large stockpile of mixed construction debris, asphalt, concrete, and different types of soils and stones. Inspectors observed that concrete washout has been illegally disposed of by discharging the concrete washout off the top of the stockpile in violation of EPA regulations on the disposal of concrete washout.
14. Inspectors also observed that the illegal discharge of concrete washout has impacted habitat for endangered species (NHESP-PH364) by eroding into the habitat and beyond.
15. Inspectors observed that this stockpile was also not utilizing any of the required BMP's to prevent fugitive dust, erosion, and sedimentation. This uncontrolled erosion impacted the adjoining habitat for endangered species (NHESP-PH364) and causes nuisance dust violations and impacts to neighbors.
16. Inspectors also observed that improper side slopes contributed to the erosion to the endangered species habitat in violation of the NPDES and SWPPP permits.
17. Inspectors also observed a large industrial transformer that had been dumped in the wooded area of the stockpiled waste, Inspectors were unable to determine if this transformer contained hazardous waste (PCB's) or was leaking.

Town officials then inspected the area of the former hot mix asphalt plant. Inspectors observed solid waste in piles on the ground and not stored in suitable containers, visible staining of the soil in the area from the operational impacts of the asphalt plant, and what appeared to be a stockpile of contaminated soil covered in plastic. The containment structure for the liquid asphalt tanks was still in place and showed obvious signs of breaches of the containment of liquid asphalt on the outside of the structure.

Inspectors also inspected the primary crusher and observed that fugitive dust controls from the primary crushing area are ineffective in preventing fugitive dust impacts to the nearby neighborhood. There was heavy dust on foliage of trees near the crushing conveyors indicating that water controls were not effective in controlling the nuisance conditions.

Inspectors then inspected the stone crushing and stockpile areas, and observed the following:

1. Stone stockpile volumes are in violation of the Particulate Matter Control Plan (PMCP) submitted by P.J. Keating to the Acushnet Board of Health.
2. The stone stockpiles exceed the 30,000-ton limit and are allowing fugitive dust to travel beyond the property line impacting nearby residents and their homes.
3. The PMCP requires that two (2) water canons be deployed at the stone piles to prevent fugitive dust, no water canons were in use or in sight during this inspection, causing wind blown fugitive dust beyond the property line impacting nearby neighbors and their homes.
4. The PMCP requires that dust and sediment buildup on the crushing equipment and associate stackers is regularly removed to prevent nuisance dust and PMCP violations. Inspectors found large quantities of built up dust and sediment in violation of the PMCP.
5. Inspectors also observed widespread silt and dust build up on the paved surfaces surrounding the equipment in violation of the SWPPP, the SWPPP requires regular cleanup and good house keeping practices to prevent stormwater pollution and impacts to the Acushnet River, and fugitive dust impacts to the nearby neighborhood.
6. Inspectors also observed poor house keeping and lack of erosion controls throughout the site, there were no perimeter erosion controls protecting stormwater from contaminated runoff from any stockpile on the site in violation of the NPDES and SWPPP permits.

Inspectors found serious violations of the following operating conditions:

1. NPDES permit,
2. SWPPP permit,
3. Particulate Matter Control Plan,
4. Beneficial Use determination, Solid Waste Regulations (310 CMR 19)
5. Soil Board Permit.
6. 310 CMR 7.09 (1) (4).
7. 310 CMR 7.10 (1).
8. Town of Acushnet Stormwater Regulations.
9. Exhibit "A" of the Soil Board Permit Dated June 23, 2020
10. #3 of the Soil Board Condition's, Failure to keep the quarry area free from debris, hazardous materials, and or any waste materials.

Massachusetts General Law, Chapter 111, Section 122 states the board of health shall examine into all nuisances and prevent or remove as the case may require. Therefore,

You are Hereby Ordered to Immediately Cease All Operations at the Property and:

1. File a stockpiling plan showing the location of all stockpiles of finished materials for approval by the Board of Health.
2. The proposed size (Tons) and maximum height of all stockpiles for approval by the Board of Health.
3. The type and location of all BMP's and or erosion controls for all stockpiles on the site for approval by the Board of Health.
4. The location and type of equipment or BMP's to control fugitive dust for all material stockpiles for approval by the Acushnet Board of Health.
5. Retain a certified erosion control specialist to develop and implement a stormwater control program for the site to be approved by the Board of Health.
6. Retain a Licensed Site Professional to assess any impacts from the illegal disposal of concrete washout at the site and assess any impacts from contamination to the former hot mix asphalt plant area.
7. Develop a plan to properly dispose of or recycle the mining waste/silt piles on the site to be approved by the Board of Health.
8. Immediately dispose of the asphalt shingles dumped on site at a permitted solid waste facility.
9. Develop a plan to perform air monitoring both on-site and off-site for Particulate matter testing for PM10 to PM1, to be approved by the Board of Health.
10. File a plan to legally dispose of all solid waste on the property at a permitted solid waste facility to be approved by the Board of Health.
11. File a plan showing the location and construction details for all proposed and existing stormwater controls and basins to be approved by the Board of Health.
12. Provide SWPPP and NPDES yearly certifications of compliance within 7 days of this notice.
13. Provide discharge dates and data for any discharges to the Outfall 001 for the month of June and July 2020 within 7 days of this notice.
14. Provide TSS, Turbidity and pH testing data, work sheets, chain of custody and data reports for April, May, June, July 2020 within 7 days.
15. Provide any SWPPP team meeting documents and inspection reports and recommendations for 2019 and 2020.
16. Provide asbestos testing records, material shipping logs, weight slips, material usage, and records of rejected loads, of asphalt shingles for 2019 and 2020 within 7 days of this notice.
17. Provide a detailed operating plan showing the phased operation and quarry activities, include details on areas of blasting and location of seismograph locations for each blast event within 14 days for Board of Health approval.
18. Provide a detailed quarry reclamation plan showing final grades and descriptions of all materials used in the reclamation within 30 days for Board of Health approval.
19. Provide a plan to remove all sand and sediment from the sidewalks along South Main Street within 2500 feet of 72 South Main Street in both directions for approval by the Board of Health.

20. Install stormwater drains at the entrance and exit from the site to prevent stormwater exiting the site onto South Main Street within 30 days.

Failure to comply with this order may result in a complaint being filed in court, a fine being levied against you, and/or imprisonment. Furthermore, failure to comply with the conditions of the Soil Removal Permit will result in the suspension or revocation of the permit.

You have a right to a hearing, and any affected party has a right to appear at such hearing. A written request for such hearing must be received by this office within seven days of the receipt of this letter.

If you have any questions in this matter, please feel free to contact the Board of Health Office.

Regards,

Patrick Hannon
Assistant Health Agent

CERTIFIED MAIL #

Cc: Board of Health
Town Administrator
Board of Selectman
Soil Conservation Board
Conservation Commission
Seth Pickering, MDEP SERO
Town Counsel