



**Town of Arlington  
Legal Department**

Douglas W. Heim  
Town Counsel

A handwritten signature in blue ink, appearing to read "D. Heim", written over the printed name and title.

50 Pleasant Street  
Arlington, MA 02476  
Phone: 781.316.3150  
Fax: 781.316.3159  
E-mail: [dheim@town.arlington.ma.us](mailto:dheim@town.arlington.ma.us)  
Website: [www.arlingtonma.gov](http://www.arlingtonma.gov)

**To:** Board of Selectmen

**Cc:** Adam Chapdelaine, Town Manager  
Michael Rademacher, Director of Public Works

**Date:** August 13, 2015

**Re:** Buzzell Field Notice of Activity and Use Limitation

---

Members of the Board, as you may recall in 2007, renovations to Town recreation facilities located on Buzzell Field revealed the presence of waste materials beneath the surface of the field attributable to the historic use of the area as a municipal solid waste (MSW) disposal site as far back as the early 1900s. The former disposal site was closed and covered in the 1960s according to the standards of that time. However, modern regulations and practices require more stringent investigation and mitigation measures (such as modifications to the cap over the waste), all of which have been done to meet DEP's requirements so that the field poses no risk to public health, welfare, safety, or the environment.

The last remaining measure to be performed before the Town files with DEP to close-out the site and attest the necessary actions have been taken to assure the site presents no significant risk is to authorize, record and notice an "Activity and Use Limitation" (AUL) for the field. An AUL in this context is essentially a legal restriction on certain activities and uses of Buzzell Field to ensure that the MSW underneath the cap remains undisturbed. The proposed AUL (with attachments), is annexed hereto for your review.

*I respectfully request that the Board vote to approve the execution of the AUL and to authorize me to take all steps necessary to record the notice and make requisite filings with DEP. You will find text of the necessary vote attached to the AUL as Exhibit "D." Thank you.*

Note: Pursuant to 310 CMR 40.1074(5), upon transfer of any interest in or a right to use the property or a portion thereof that is subject to this Notice of Activity and Use Limitation, the Notice of Activity and Use Limitation shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer. Within 30 days of so incorporating the Notice of Activity and Use Limitation in a deed that is recorded or registered, a copy of such deed shall be submitted to the Department of Environmental Protection.

NOTICE OF ACTIVITY AND USE LIMITATION  
M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Buzzell Field, Summer Street, Arlington, Massachusetts  
DEP Release Tracking No.: 3-27220

This Notice of Activity and Use Limitation ("Notice") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2015, by The Town of Arlington, 730 Massachusetts Avenue, Arlington Massachusetts 02476, together with his/her/its/their successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, The Town of Arlington is the owner(s) in fee simple of that certain parcel(s) of land located in Arlington, Middlesex County, Massachusetts with the buildings and improvements thereon, pursuant to an Order of Taking recorded with the Middlesex-South Registry of Deeds in Book 5495, Page 515;

WHEREAS, said parcel(s) of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Middlesex-South Registry of Deeds as Plan Number 449 of 2015;

WHEREAS, the Property comprises all of a disposal site as the result of release(s) of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property. A description of the basis for such restrictions, and the oil and/or hazardous material release event(s) or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation is attached hereto as Exhibit C and made a part hereof;

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in this Notice of Activity and Use Limitation are as follows:

1. Activities and Uses Consistent with Maintaining No Significant Risk Conditions.  
The following Activities and Uses are consistent with maintaining a Permanent Solution and a condition of No Significant Risk and, as such, may occur on the Property pursuant to 310 CMR 40.0000:

- (i) Permitted activities and uses of the Property include those that do not result in the disturbance of soil below two (2) feet from existing surface grades, including but not limited to active recreational uses for adults and children, pedestrian and/or vehicular traffic, vehicle parking, landscaping and routine non-invasive maintenance of paved and landscaped areas;
- (ii) Subsurface activities associated with emergency utility work (less than 6 months), including excavation and/or construction, which may disturb soils below a depth of two (2) feet from surface grade, provided that no soil below two (2) feet from surface grade is relocated to a shallower depth, pre-excavation surface grades and Surface Cover conditions are restored upon completion and any displaced soil is managed in accordance with the provisions of 310 CMR 40.0030. Existing surface cover ("Surface Cover") is defined as the upper two (2) feet of soil in earthen areas or asphalt/concrete pavement and is delineated in the Sketch Plan attached as Exhibit B;
- (iii) Short Term (less than 6 months) underground construction activities that involve the disturbance of soils below a depth of two (2) feet from surface grade, provided that appropriate soil management and health and safety plans pursuant to the provisions of 310 CMR 40.1067 are prepared and implemented in accordance with Obligations and Conditions 3(ii) and 3(iii) of this Notice of Activity and Use Limitation prior to initiating such activities, and provided that pre-excavation surface grades and Surface Cover are restored upon completion and no soil below two (2) feet from surface grade is relocated to a shallower depth;

- (iv) Such other activities or uses which, in the Opinion of a Licensed Site Professional, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and
- (iv) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with maintaining No Significant Risk Conditions.

2. Activities and Uses Inconsistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk pursuant to 310 CMR 40.0000, and, as such, may not occur on the Property:

- (i) Any use or activity that would result in the exposure to soil and/or fill materials located below a depth of two (2) feet from existing surface grades, except those uses and activities identified within Section 1(ii) and 1(iii) of this Notice of Activity and Use Limitation, unless an LSP Opinion has been rendered that concludes that such uses or activities would not violate a condition of No Significant Risk and are consistent with the provisions of the MCP;
- (ii) Use of the Property as a residence, school(with the exception of adult education), nursery, daycare, or for growing fruits or vegetables intended for consumption, or construction of any enclosed building or structure unless an LSP Opinion has been rendered that concludes that such uses would not violate a condition of No Significant Risk and are consistent with the provisions of the MCP; and
- (iii) Activities and uses that involve the relocation of soil below a depth of two (2) feet from surface grade to more accessible locations unless an LSP Opinion has been rendered that concludes that such activities would not violate a condition of No Significant Risk and are consistent with the provisions of the MCP.

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken and/or maintained at the Property to maintain a Permanent Solution and a condition of No Significant Risk:

- (i) Existing surface grades must be maintained within the boundaries of the AUL area;
- (ii) For allowed activities and uses other than with emergency utility work described in paragraph 1(ii), an appropriate soil management plan must be developed and implemented at the site prior to any subsurface activities which would result in the disturbance of soil below a depth of two (2) feet

from existing surface grade. The soil management plan must be completed by an LSP and in accordance with the provisions of Section 310 CMR 40.0030 of the MCP; and

- (iii) For allowed activities and uses other than emergency utility work described in paragraph 1(ii), a health and safety plan must be developed and implemented prior to conducting any subsurface activities which would result in the disturbance of soil below a depth of two (2) feet from existing surface grade. The health and safety plan should be prepared in accordance with the provisions of 310 CMR 40.0018 of the MCP.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by a Licensed Site Professional who shall render an Opinion, in accordance with 310 CMR 40.1080, as to whether the proposed changes are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Permanent or Temporary Solution. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by a Licensed Site Professional in accordance with 310 CMR 40.1080, and without additional response actions, if necessary, to maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a Licensed Site Professional in accordance with 310 CMR 40.1080, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned Licensed Site Professional, and recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s).

WITNESS the execution hereof under seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Town of Arlington  
By its Board of Selectmen:

\_\_\_\_\_  
Kevin F. Greeley, Chair

\_\_\_\_\_  
Diane M. Mahon, Vice Chair

\_\_\_\_\_  
Steven A. Byrne

\_\_\_\_\_  
Joseph A. Curro, Jr.

\_\_\_\_\_  
Daniel J. Dunn

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss \_\_\_\_\_, 2015

On this \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned notary public, personally appeared \_\_\_\_\_

\_\_\_\_\_  
(name(s) of document signer), proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Board of Selectman of the Town of Arlington.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

The undersigned Licensed Site Professional hereby certifies that in his Opinion this Notice of Activity and Use Limitation is consistent with a Permanent Solution and maintaining a condition of No Significant Risk.

Date: \_\_\_\_\_

\_\_\_\_\_  
Jeffrey A. Nangle, P.E., L.S.P.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

\_\_\_\_\_, 2015

On this \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned notary public, personally appeared Jeffrey A. Nangle, proved to me through satisfactory evidence of identification, which were being known to me personally, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public: Pauline Bogle  
My Commission Expires:

Upon recording, return to:

Douglas Heim, Esquire  
Town of Arlington  
730 Massachusetts Avenue  
Arlington, Massachusetts 02476

## **EXHIBIT A**

A certain parcel of land located in the Town of Arlington on the southern side of Summer Street and shown as "Parcel A" on a Plan of Land prepared by Medford Engineering & Surveying entitled "Boundary Survey, Buzzell Field, Arlington, Mass" dated May 7, 2015 and recorded in the Middlesex-South County Registry of Deeds as Plan Number 449 of 2015, more particularly described as follows:

Beginning at point, said point being located;

- |                   |   |
|-------------------|---|
| S 78°- 44'- 16" W | a distance of ninety-eight and 56/100 (98.56) feet; thence  |
| S 11°- 15'- 44" E | a distance of fifty and 00/100 (50.00) feet; thence   |
| N 78°- 44'- 15" E | a distance of forty-six and 30/100 (46.30) feet from a stone bound located on the northern sideline of Summer Street at the point of curvature for the westerly sideline of Victoria Road as shown on the aforementioned plan; thence |
| N 78°- 44'- 16" E | a distance of three hundred nine and 07/100 (309.07) feet; thence   |
| Easterly          | a distance of one hundred seventy-five and 15/100 (175.15) feet along a curve to the right having a radius of four hundred ninety-four and 29/100 (494.29) feet; thence   |
| Southeasterly     | a distance of ten and 00/100 (10.00) feet along a curve to the right having a radius of five hundred one and 90/100 (501.90) feet; thence   |
| Southerly         | a distance of three hundred six and 01/100 (306.01) feet along a curve to the left having a radius of five hundred sixty 00/100 (560.00) feet; thence   |
| S 28°- 29'- 20" W | a distance of forty and 00/100 (40.00) feet; thence   |
| S 84°- 48' -12" W | a distance of eighteen and 04/100 (18.04) feet; thence  |
| N 16°- 29'- 34" W | a distance of fourteen and 13/100 (14.13) feet; thence  |
| N 61°- 32'- 09" W | a distance of one hundred fifteen and 01/100 (115.01) feet; thence  |
| S 36°- 47'- 45" W | a distance of eighty-nine and 91/100 (89.91) feet; thence   |
| S 75°- 45'- 51" W | a distance of forty-five and 20/100 (45.20) feet; thence  |
| S 60°- 34'- 59" W | a distance of seventy-one and 08/100 (71.08) feet; thence   |



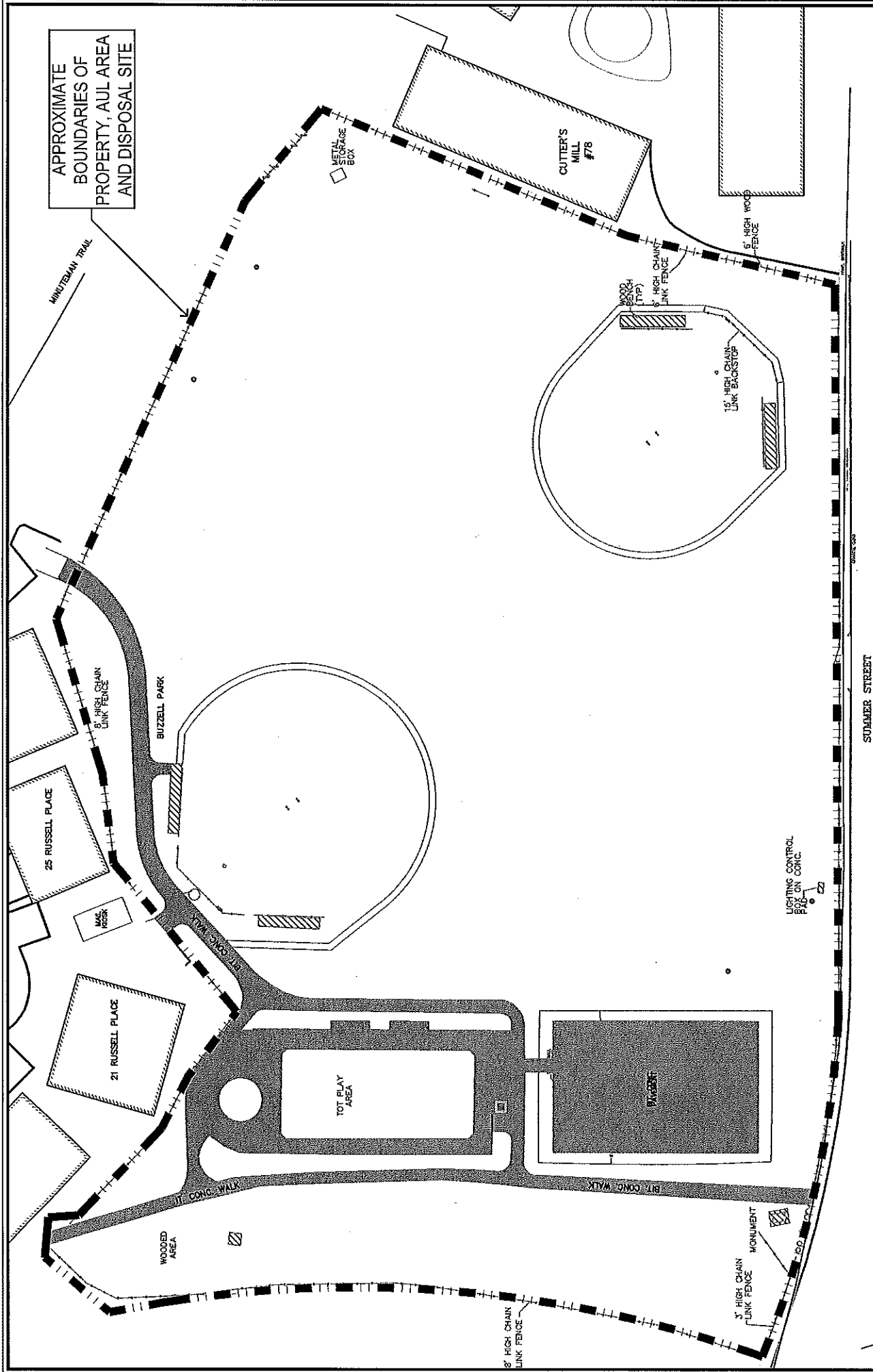
### **EXHIBIT A (continued)**

N 76°- 13'- 56" W     a distance of one hundred twenty five and 80/100 (125.80) feet; thence  
N 76°- 13'- 56" W     a distance of eighty-seven and 20/100 (87.20) feet; thence  
N 61°- 11'- 24" W     a distance of fifty-three and 53/100 (53.53) feet; thence  
N 11°- 49'- 11" E     a distance of one hundred fifty and 99/100 (150.99) feet; thence  
N 00°- 51'- 32" E     a distance of one hundred and 00/100 (100.00) feet, to the point of  
beginning.

Said parcel containing 162,156± square feet of land, as shown on said plan.

**EXHIBIT B**

**Disposal Site/Parcel/AUL Boundary Sketch**



<p>APPROXIMATE DISPOSAL SITE, AUL &amp; PROPERTY BOUNDARY</p> <p>BUZZELL FIELD</p> <p>ARLINGTON</p> <p>MASSACHUSETTS</p>	<p>REFERENCE: Sept 2014 Plan Prepared by Medford Engineering &amp; Survey entitled "Boundary Survey-Buzzell Field, Arlington MA"</p> <p>Date: JUL 2015</p> <p>Job No: 488.02</p> <p>Exhibit B</p>
<p>NCA Nangle Consulting Associates 45 Dan Road - Suite 115 Canton, Massachusetts</p>	<p>LEGEND</p> <p>SURFACE COVER</p> <p>ASPHALT</p> <p>CONCRETE</p> <p>ALL OTHER AREAS IN AUL AREA ARE EARTHEN COVER</p> <p>0 30 60</p> <p>Approximate Scale in Feet</p>

## **EXHIBIT C**

### **SUMMARY OF RELEASE DESCRIPTION AND BASIS FOR NOTICE OF ACTIVITY AND USE LIMITATION**

Buzzell Field, Summer Street  
Arlington, Massachusetts 02476  
Release Tracking Number 3-27220

Pursuant to the provisions of Section 40.1074 of the Massachusetts Contingency Plan (MCP), the following description of release/environmental assessment history and the basis for implementing a Notice of Activity and Use Limitation (AUL) at the property known as Buzzell Field and described in Exhibit A of the Notice of AUL has been prepared by Nangle Consulting Associates, Inc. (NCA) on behalf of the Town of Arlington.

#### **Release/Environmental Assessment History**

The release condition for which response actions have been undertaken at the Buzzell Field property may be described as a combination of solid waste management and hazardous materials issues attributable to historic uses involving the operation of a municipal solid waste (MSW) disposal site by the Town of Arlington. Based upon the review of available information, approved MSW operations were performed at and in the area of Buzzell field between the period of the late 1940's through the 1950's. In the early 1960's, this solid waste disposal area was covered in accordance with the then existing industry standards, with final surface cover consisting of gravel, loam and seed to support future use as recreational playing fields. To assist in the review of the information presented within this summary, a USGS Topographic Locus Map and a Sketch Plan of Site may be referenced as Figures 1 and 2, respectively.

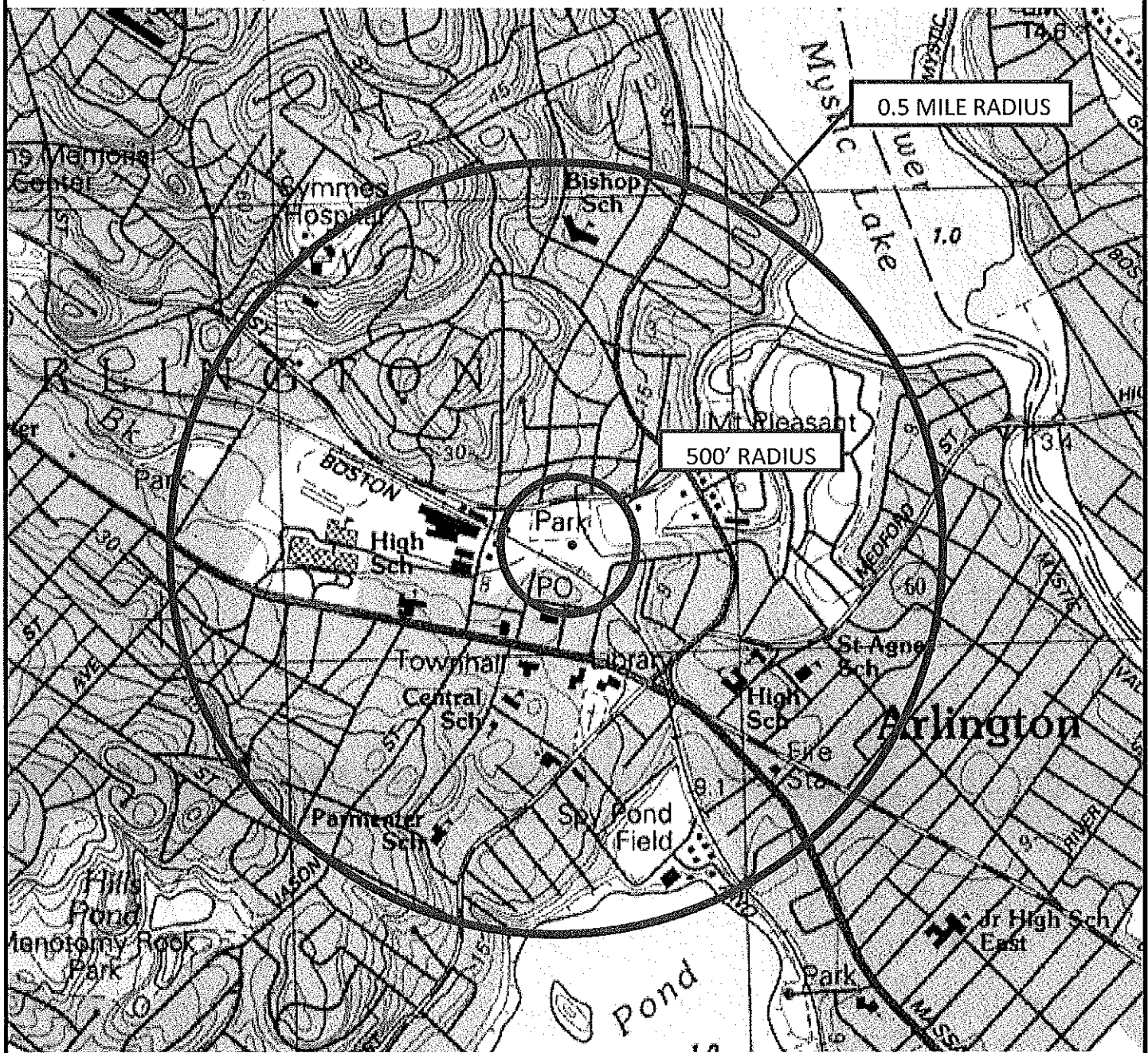
In the summer of 2007, site contractors retained by the Town of Arlington began renovating Buzzell Field through the installation of new playing surfaces and improved drainage features. While excavating for utility installation, indications of municipal solid waste were encountered and project activities were shut down pending the appropriate assessment of site conditions and review of former land use practices. The review of available site history information identified correspondence from the Commonwealth of Massachusetts Department of Public Health to the Town of Arlington, dated 14 April 1950, which indicated that the facility was being managed within the framework of state and local regulatory guidance existing at that time. Historically, selection of this location for the deposition of trash dates back to the early 1900s when a portion of a surface water body referred to as "Suckers Brook" (Mill Brook) and subsequently Fowles Pond was culverted to mitigate local Board of Health and nuisance issues. Following this, formal landfill operations continued in the area, resulting in the filling of the former wetland area up to the surface grades that exist today. The area of the former landfill has supported recreational uses since at least the early 1960s.

The scope of assessment activities completed by NCA on behalf of the Town of Arlington has included the investigation of soil/fill and groundwater quality, together with an evaluation of the extent of land filling activities. This scope of work was performed through the placement of six (6) test borings, five (5) 2-inch diameter groundwater observation wells, 18 test pits and 42 geoprobes. Approximate sampling locations may be referenced from Figure 3. In general, the assessment of Buzzell Field has revealed a maximum depth of trash extending up to 25 feet in central portions of the former landfill. The footprint of the former landfill within the boundary of the Buzzell Field parcel that is the subject of the Notice of AUL appears to extend to the general limits of the former Fowles Pond/Sucker Brook resource area. This extent of fill deposition is consistent with the depths of the culverted Mill Brook which passes along the southerly limits of the project area. Solid waste material encountered during boring/test pit/geoprobe placement generally consisted of scrap metal, plastic, glass, leather, ash, paper and cloth. With the exception of trace levels of petroleum residuals approximately 6-8 feet below surface grade at one location and the identification of several elevated metals in isolated soil samples, the physical inspection and laboratory quantification of fill deposition suggest a predominance of municipal solid waste materials.

In general, response actions conducted under RTN 3-27220 have included the completion of comprehensive assessment activities, modifications to the originally proposed renovation design and the placement of an earthen direct contact barrier (cap) over portions of the parcel that were renovated in 2008. As described in NCA's September 2010 Phase II Comprehensive Site Assessment Report and Phase III Remedial Action Plan, the original renovation plan for Buzzell Field had anticipated the removal of existing surface cover to a depth of 12-18 inches below grade and the re-establishment of surface grades/playing fields. Following MDEP review, revisions were made to this plan to incorporate the risk reduction elements of the Massachusetts Contingency Plan (MCP) through the installation of a direct contact capping measure having a thickness of 30-36". It is to be noted that revisions to the originally designed scope of work also included a reduction in the extent of sub-grade utilities and the sealing of deep manhole structures. Since the completion of construction activities in the spring of 2008, the direct contact barrier has revealed no compromises to its integrity, or significant deviations from its design criteria.

#### **Reason for Notice of Activity and Use Limitation**

A risk characterization has been completed for the site utilizing the environmental data and information obtained through the assessment activities referenced above. Based upon the results obtained, it has been determined that no significant risk to health, public welfare, safety or the environment currently exists. As a greater risk could potentially exist if deeper soils or historic solid waste materials beneath the clean soil cover/cap were exposed or relocated to the surface, future activities and uses have been limited to eliminate potential exposure pathways through the implementation of a Notice of AUL for the Buzzell Field Property (Figure 2).



U.S.G.S TOPOGRAPHIC LOCUS  
BUZZELL FIELD  
ARLINGTON, MASSACHUSETTS

U.S.G.S QUADRANGLE  
BOSTON-NORTH

CONTOUR INTERVAL-3 METERS



KILOMETERS



MILES

LATITUDE/LONGITUDE

N 42°25'06" W 71°09'22"

UTM

N 4698.470 KM E 322.604 KM

**NCA**

Nangle Consulting Associates, Inc.  
45 Dan Road - Suite 115 Canton, Massachusetts

Date: JUL 2015

Job No: 488.02

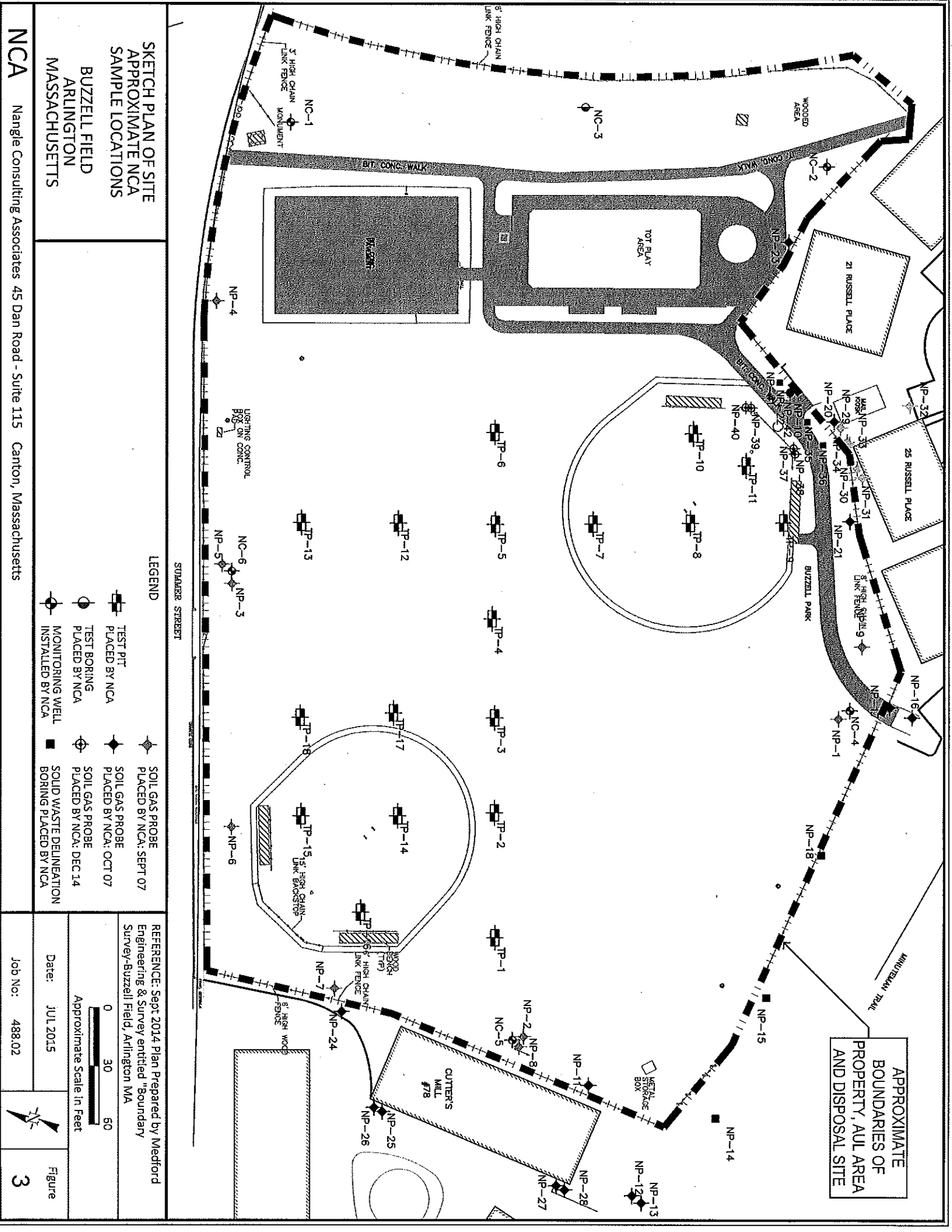


Figure

1



Figure 2



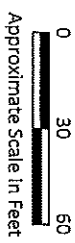
SKETCH PLAN OF SITE  
APPROXIMATE NCA  
SAMPLE LOCATIONS

BUZZELL FIELD  
ARLINGTON  
MASSACHUSETTS

LEGEND

- TEST PIT  
PLACED BY NCA
- TEST BORING  
PLACED BY NCA
- MONITORING WELL  
INSTALLED BY NCA
- SOIL GAS PROBE  
PLACED BY NCA: SEPT 07
- SOIL GAS PROBE  
PLACED BY NCA: OCT 07
- SOIL GAS PROBE  
PLACED BY NCA: DEC 14
- SOLID WASTE DELINEATION  
BORING PLACED BY NCA

REFERENCE: Sept 2014 Plan Prepared by Medford  
Engineering & Survey entitled "Boundary  
Survey-Buzzell Field, Arlington MA



Date: JUL 2015

Job No: 488.02



**EXHIBIT D**

**CERTIFICATE OF VOTE**

Board of Selectman  
Town of Arlington, Massachusetts

The undersigned, being the Board Administrator of the Board of Selectmen of the Town of Arlington, hereby certifies that Board of Selectmen by a vote of \_\_\_\_\_ took the following action at a duly noticed meeting held on \_\_\_\_\_:

VOTED: The Board of Selectmen does hereby authorize the execution of a Notice of Activity and Use Limitation with respect to Buzzell Field (Summer Street), Massachusetts Department of Environmental Protection (MDEP) Release Tracking Number 3-27220, and further authorizes the Town Counsel to take all necessary steps to record said Notice of Activity and Use Limitation and make necessary filings with the MDEP to achieve an appropriate Permanent Solution with respect to this Property.

I further certify that the aforesaid vote has not been rescinded, in whole or in part, by vote of the Board of Selectmen.

\_\_\_\_\_  
*Signature*

Marie A. Krepelka, Board Administrator

Date:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. \_\_\_\_\_, 2015

On this the \_\_\_\_ day of \_\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:

My Commission Expires: