



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

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*RAO 6-29-10*

JUL 06 2010

**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**

NSTAR Gas and Electric  
One NSTAR Way, NE250  
Westwood, MA 02090

**RE: Wayland  
Wayland Nursing and Rehab Center  
188 Commonwealth Road  
RTN 3-29309**

Attention: Dan Watton

**NOTICE OF RESPONSIBILITY; MGL c. 21E &  
310 CMR 40.0000**

Dear Mr. Watton:

On June 3, 2010, at 7:06 pm, the **Massachusetts Department of Environmental Protection** (MassDEP) received oral notification of a release/threat of release of oil/hazardous material at the subject location, which requires one or more response actions. Based on this information, MassDEP has reason to believe that the subject property or portion(s) thereof is a disposal site as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E and the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000. M.G.L. c.21E and the MCP govern the assessment and cleanup of disposal sites.

The purpose of this notice is to inform you of your legal responsibilities under state law for assessing and/or remediating the subject release. For purposes of this notice, the terms and phrases used herein shall have the meaning ascribed to them by the MCP unless the text clearly indicates otherwise.

### **STATUTORY LIABILITIES**

MassDEP also has reason to believe that you (as used in this letter "you" refers to **NSTAR Gas and Electric**) are a Potentially Responsible Party (PRP) with liability under M.G.L. c. 21E, Section 5, for response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

This liability is "strict" meaning that it is not based on fault but solely on your status as owner, operator, generator, transporter or disposer. It is also "joint and several", meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, MassDEP is authorized by M.G.L. c. 21E to have the work performed by its contractors. By taking such actions, you can avoid liability for response action costs incurred by MassDEP and its contractors in performing these actions, and any sanctions, which may be imposed, for failure to perform response actions under the MCP.

You may be liable for up to three (3) times all response action costs incurred by MassDEP. Response action costs include, without limitation, the cost of direct hours spent by MassDEP employees arranging for response actions or overseeing work performed by persons other than MassDEP or its contractors, expenses incurred by MassDEP in support of those direct hours, and payments to MassDEP's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all response action costs incurred by MassDEP, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued hereunder.

### **NECESSARY RESPONSE ACTIONS**

The subject site shall not be deemed to have all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP. In addition, the MCP requires persons undertaking response actions at disposal sites to perform Immediate Response Actions (IRAs) in response to "sudden releases", Imminent Hazards and Substantial Release Migration. Such persons must continue to evaluate the need for IRAs and notify MassDEP immediately if such a need exists.

**MassDEP has determined that an IRA is necessary to respond to a release of oil and/or hazardous material at the subject site.**

**You are authorized to conduct only the specific response actions for which you received oral approval from MassDEP at the time oral notification was provided to MassDEP of the subject release. All additional Immediate Response Actions require MassDEP approval in accordance with 310 CMR 40.0420.**

**MassDEP reminds you that IRAs must include site assessment activities necessary to evaluate potential Imminent Hazard (IH), Substantial Release Migration (SRM), and Critical Exposure Pathway (CEP) conditions. Additional Immediate Response Actions will be required in the event an IH, SRM, or CEP condition is observed.**

You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or actually perform the necessary response actions at the subject site. In addition, the MCP requires persons undertaking response actions at a disposal site to submit to MassDEP a Response Action Outcome Statement (RAO) prepared by an LSP in accordance with 310 CMR 40.1000 upon determining that a level of No Significant Risk already exists or has been achieved at a disposal site or portion thereof. [You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals at (617) 556-1091.]

There are several other submittals required by the MCP which are related to release notification and/or response actions that may be conducted at the subject site in addition to an RAO, that, unless otherwise specified by MassDEP, must be provided to MassDEP within specific regulatory timeframes. The submittals are as follows:

- (1) If information is obtained after making an oral or written notification to indicate that the release or threat of release didn't occur, failed to meet the reporting criteria at 310 CMR 40.0311 through 40.0315, or is exempt from notification pursuant to 310 CMR 40.0317, a Notification Retraction may be submitted within 60 days of initial notification pursuant to 310 CMR 40.0335; otherwise,

**NSTAR Gas and Electric**  
**Notice of Responsibility**  
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- (2) If one has not been submitted, a Release Notification Form (RNF) [**copy attached**] must be submitted to MassDEP pursuant to section 310 CMR 40.0333 within 60 calendar days of the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or from the date MassDEP issues a Notice of Responsibility (NOR), whichever occurs earlier;
- (3) Unless an RAO or Downgradient Property Status Submittal is provided to MassDEP earlier, an Immediate Response Action (IRA) Plan prepared in accordance with 310 CMR 40.0420, or an IRA Completion Statement (310 CMR 40.0427) must be submitted to MassDEP within 60 calendar days of the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or from the date MassDEP issues an NOR, whichever occurs earlier; and
- (4) Unless an RAO or Downgradient Property Status Submittal is provided to MassDEP earlier, a completed Tier Classification Submittal pursuant to 310 CMR 40.0510, and, if appropriate, a completed Tier I Permit Application pursuant to 310 CMR 40.0700, must be submitted to MassDEP within one year of the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or from the date MassDEP issues an NOR, whichever occurs earlier.
- (5) Pursuant to the MassDEP's "Timely Action Schedule and Fee Provisions", 310 CMR 4.00, a fee of \$1,200 must be included with an RAO statement that is submitted to MassDEP more than 120 calendar days after the initial date of oral notification to MassDEP of a release pursuant to 310 CMR 40.0300 or after the date MassDEP issues an NOR, whichever occurs earlier, and before Tier Classification. A fee is not required for an RAO submitted to MassDEP within 120 days of the date of oral notification to MassDEP, or from the date MassDEP issues an NOR, whichever date occurs earlier, or after Tier Classification.

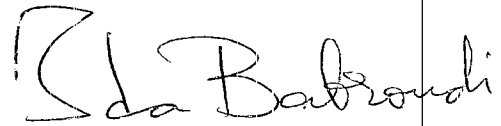
It is important to note that you must dispose of any Remediation Waste generated at the subject location in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of MassDEP, the signature of an authorized representative of MassDEP.

MassDEP encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

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If you have any questions relative to this notice, you should contact the undersigned at the letterhead address or (978) 694-3386. All future communications regarding this release must reference the Release Tracking Number (RTN) **3-29309** contained in the subject block of this letter.

Sincerely,

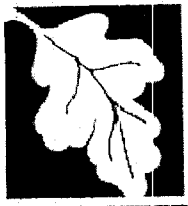


Ida Babroudi  
Environmental Engineer  
Bureau of Waste Site Cleanup

cc: Board of Health, Town of **Wayland**, Mr. Steven Calichman  
"via electronic submittal", [scalichman@wayland.ma.us](mailto:scalichman@wayland.ma.us)

MassDEP data entry/file (NOR / Issued)

Attachment: Release Notification Form; BWSC - 103



**Massachusetts Department of Environmental Protection**  
*Bureau of Waste Site Cleanup*

**BWSC101**

**RELEASE LOG FORM**

Release Tracking Number

**3 - 29309**

**A. THIS FORM IS BEING USED TO:** (check one)

1. Log Date: **6/3/2010** (mm/dd/yyyy) Log Time: **07:06** (hh:mm)  AM  PM
2. Assign a Release Tracking Number (RTN) to a Release or TOR Report.  
 a. Reportable Release or TOR.  b. Release that is Less Than the Reporting Thresholds.
3. Amend a Previously Recorded Release or TOR Report (RTN Assigned).  
 a. The Release is a Reportable Release or TOR.  b. The Release is a Release that is Less Than the Reporting Thresholds.  
 c. The Release or TOR is Retracted. (BWSC103 must be submitted, as well).  d. The Release or TOR is not a Release under M.G.L. c. 21E.

**B. REPORTING PERSON:**

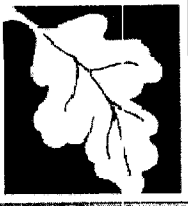
1. Name of Organization: **NSTAR**
2. First Name: **ROBERT** 3. Last Name: **O'LAUGHLIN**
4. Telephone: **6175417855** 5. Ext.: \_\_\_\_\_
6. Relationship of Person to Release:  a. PRP  b. Other  c. Type, if known (e.g. Current Owner) Non-specified PRP

**C. RELEASE OR THREAT OF RELEASE (TOR)/SITE LOCATION:**

1. Location Aid/Site Name: **WAYLAND NURSING AND REHAB CENTER**
2. Street Address: **188 COMMONWEALTH ROAD** 3. 2nd Address Line: \_\_\_\_\_
4. City/Town: **WAYLAND, WAYLAND** 5. ZIP Code (if known): **017780000**
6. Type of Location: (check all that apply)  a. School  b. Water Body  c. Right of Way  d. Utility Easement  
 e. Roadway  f. Municipal  g. State  h. Residential  i. Open Space  j. Private Property  
 k. Industrial  l. Commercial  m. Federal  n. Other Describe: \_\_\_\_\_

**D. RELEASE OR TOR INFORMATION:**

1. Date and Time of Notification: **6/3/2010** (mm/dd/yyyy) Time: **07:06** (hh:mm)  AM  PM
2. Date and Time Reporting Person obtained Knowledge of Release or TOR: **6/3/2010** (mm/dd/yyyy) Time: **07:00** (hh:mm)  AM  PM
3. Date and Time Release or TOR occurred, if known: \_\_\_\_\_ (mm/dd/yyyy) Time: \_\_\_\_\_ (hh:mm)  AM  PM
4. Sources of the Release or TOR: (check all that apply)  a. Transformer  b. Fuel Tank  c. Pipe  
 d. Above-ground Storage Tank (AST)  e. Drums  f. Tanker Truck  g. Hose  h. Line  
 i. Uncer-ground Storage Tank (UST)  j. Vehicle  k. Boat/Vessel  l. Unknown  
 m. Other Specify: \_\_\_\_\_
5. Federal LUST Eligible:  a. Yes  b. No  c. Unknown d. DFS UST/AST Tank ID Number: \_\_\_\_\_



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Check all Notification Thresholds that apply to the Release or TOR:

6. 2 Hour Reporting Conditions:

- a. Sudden Release
- b. Threat of Sudden Release
- c. Oil Sheen on Surface Water
- d. Poses Imminent Hazard
- e. Could Pose Imminent Hazard
- f. Release Detected in Private Well
- g. Release to Storm Drain
- h. Sanitary Sewer Release (Imminent Hazard Only)

7. 72 Hour Reporting Conditions:

- a. Subsurface Non-Aqueous Phase Liquid (NAPL) Equal to or Greater than 1/2 Inch
- b. Underground Storage Tank (UST) Release
- c. Threat of UST Release
- d. Release to Groundwater near Water Supply
- e. Release to Groundwater near School or Residence
- f. Substantial Release Migration

8. 120 Day Reporting Conditions:

- a. Release of Hazardous Material(s) to Soil or Groundwater Exceeding Reportable Concentration(s)
- b. Release of Oil to Soil Exceeding Reportable Concentration(s) and Affecting More than 2 Cubic Yards
- c. Release of Oil to Groundwater Exceeding Reportable Concentration(s)
- d. Subsurface Non-Aqueous Phase Liquid (NAPL) Equal to or Greater than 1/8 Inch and Less than 1/2 Inch

9. Type of Release or TOR: (check all that apply)

- a. Dumping
- b. Fire
- c. Tank Removal
- d. Overfill
- e. Rupture
- f. Vehicle Accident
- g. Leak
- h. Spill
- i. Test Failure
- j. Unknown
- k. Threat of Release Only
- l. Other Specify: **VEHICLE STRUCK TRANSFORMER**

10. Media Impacted and Receptors Affected: (check all that apply)

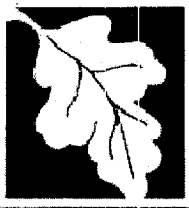
- a. Paved Surface
- b. Basement
- c. School
- d. Public Water Supply
- e. Surface Water
- f. Zone 2
- g. Private Well
- h. Residence
- i. Soil
- j. Groundwater
- k. Sediments
- l. Wetland
- m. Storm Drain
- n. Indoor Air
- o. Air
- p. Critical Exposure Pathway
- q. Unknown
- r. Others Specify: \_\_\_\_\_

11. List below the Oils (O) or Hazardous Materials (HM) that exceed their Reportable Concentration (RC) or Reportable Quantity (RQ) by the greatest amount.

O or HM Released	CAS Number, if known	O or HM	Amount or Concentration	Units	RCs Exceeded, if Applicable
TRANSFORMER OIL (PCB-CONTAINING)		O	50	GAL	N/A

12. Description of Release or Threat of Release:

CALLER REPORTED RELEASE OF TRANSFORMER OIL FROM A 300 KVA PAD-MOUNT TRANSFORMER AT THE SUBJECT LOCATION. THE RELEASE REPORTEDLY OCCURRED AS A RESULT OF A MOTOR VEHICLE STRIKING THE TRANSFORMER AND RUPTURING ONE OF THE BUSHINGS. WAYLAND FIRE DEPT INITIATED A TIER I HAZMAT RESPONSE TO THE INCIDENT, DUE TO CONCERNS ABOUT THE PCB CONTENT OF THE OIL. THE ESTIMATED VOLUME OF THE RELEASE WAS BASED ON THE LOCATION OF THE RUPTURED BUSHING. MASSDEP ONCALL STAFF RESPONDED IN THE FIELD AS DIRECTED BY THE ONCALL SUPERVISOR.



**Massachusetts Department of Environmental Protection**  
*Bureau of Waste Site Cleanup*

**BWSC101**

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**E. INVOLVED PARTIES SUMMARY :**

1. PRP Status (check one):  a. PRP Unknown  b. PRP Unwilling or Unable to Perform Response Actions  
 c. PRP Performing Response Actions  d. Release is Adequated Regulated by the US Coast Guard
2. If PRP is not Performing Response Actions, who is?  
 a. DEP State Contractor  b. Other Person
3. Contractor: a. Name of Organization: **CLEAN HARBORS** b. Telephone: **8006458265**  
c. Contact First Name: **ROBERT** d. Last Name: **PAUL**
4. LSP: a. Name: **WATTON DANIEL A** b. LSP #: **6016**  
c. Telephone: **7814413805**

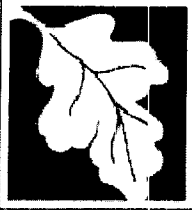
**F. PRP OR PERSON PERFORMING RESPONSE ACTIONS:**

1. Name of Organization: **NSTAR GAS AND ELECTRIC**
2. Contact First Name: **DAN** 3. Last Name: **WATTON**
4. Street: **ONE NSTAR WAY, NE250** 5. Title: **LSP**
6. City/Town: **WESTWOOD** 7. State: **MA** 8. ZIP Code: **020900000**
9. Telephone: **3399877024** 10. Ext.:  11. FAX:
12. Relationship of Person to Release:  a. PRP  b. Other c. Type (e.g. Current Owner): **Non-specified PRP**
13. Check here if this PRP received a field NOR.
14. Check here if an RNF was requested from this PRP.
15. Check here if Provisions of 21E were explained to this PRP.

**G. RECORD ORAL RESPONSE ACTIVITIES:**

1. IRA Completed Pre-notification  4. IRA Oral Plan Denied and/or Request for Written Plan  
 2. IRA Assessment Only  5. IRA Oral Modified Plan Approved  
 3. IRA Oral Plan Approved  6. Notice of Intent to Conduct a URAM
7. Date of Action: **6/3/2010**
8. Soil Previously Excavated:  a. Excavated prior to notification.  b. Excavated as part of an UST closure.  
c. Quantity of contaminated soil previously excavated and destination, if applicable:
9. Specify any Regional Specific Code (Regional Use):





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H. ORAL RESPONSE ACTION PLAN: (check all that apply)

- 1. Assessment and/or Monitoring Only
- 3. Deployment of Absorbent or Containment Materials
- 5. Structure Venting System
- 7. Product or NAPL Recovery
- 9. Groundwater Treatment Systems
- 11. Bioremediation
- 13. Excavation of Contaminated Soils
  - a. Re-use, Recycling or Treatment
    - i. On Site
    - ii. Off Site
  - b. Store
    - i. On Site
    - ii. Off Site
  - c. Landfill
    - i. Cover
    - ii. Disposal
- 14. Removal of Drums, Tanks or Containers:
 

Describe Quantity and Amount: \_\_\_\_\_
- 15. Removal of Other Contaminated Media:
 

Specify Type and Volume: **TRANSFORMER, SPENT ABSORBENTS**
- 16. Other Response Actions and Additional Comments (describe):

- 2. Temporary Covers or Caps
- 4. Temporary Water Supplies
- 6. Temporary Evacuation or Relocation of Residents
- 8. Fencing and Sign Posting
- 10. Soil Vapor Extraction
- 12. Air Sparging

Authorized volume in cubic yards: **10**

Authorized volume in cubic yards: \_\_\_\_\_

Authorized volume in cubic yards: \_\_\_\_\_

**ORAL IRA PLAN APPROVAL WAS GRANTED TO ERIC LAMONTAINE OF NSTAR TO CONDUCT A SURFACE CLEANUP, EXCAVATE UP TO 10 CUBIC YARDS OF IMPACTED SOIL FOR OFFSITE DISPOSAL/RECYCLING, EMPTY THE TRANSFORMER AND PROPERLY MANAGE THE CONTENTS, AND REMOVE THE PCB CONTAMINATED TRANSFORMER, SPENT ABSORBENTS AND ANY OTHER DEBRIS FOR OFFSITE DISPOSAL.**

I. DEP STAFF AND FORM PREPARER:

- 1. DEP Staff: a. Name: \_\_\_\_\_  b. Check here, if Unassigned (or staff name not applicable).
- 2. Preparer Signature: **ANDREW W CLARK**
- 3. Date: **6/3/2010**