

**COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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**In the Matter of**

**WAYLAND BOOSTERS ASSOCIATION**

**DEP Docket No. 2007-085**

**File No. 322-661**

**WAYLAND**

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**SETTLEMENT AGREEMENT**

1. The Department of Environmental Protection (“Department”) is a duly constituted agency of the Commonwealth of Massachusetts, established pursuant to M.G.L. c. 21A, §7, with a principal office located at One Winter Street, Boston, Massachusetts 02108, and a northeast regional office located at 205B Lowell Street, Wilmington, Massachusetts 01887.
2. The Applicant, Wayland Boosters Association, is a non-profit organization supporting high school athletics in the Town of Wayland (“Wayland Boosters”). Craig Forman, of 25 Rolling Lane, Wayland, Massachusetts 01778, serves as President of Wayland Boosters.
3. The Petitioner, Wayland 10-Citizen Group, is a group of ten Wayland residents represented by Kurt Tramosch, of 2 Weir Meadow Path, Wayland, Massachusetts 01778 (“Wayland 10-Citizen Group”).
4. The Intervenor, the Town of Wayland, is a duly organized municipality of the Commonwealth of Massachusetts having a mailing address of Town Building, 41 Cochituate Road, Wayland, Massachusetts 01778 (“Town”).
5. The Wayland Conservation Commission is a duly appointed municipal commission of the Town of Wayland having a mailing address of Town Building, 41 Cochituate Road, Wayland, Massachusetts 01778 (“Commission”).
6. Collectively, the Department, Wayland Boosters, Wayland 10-Citizen Group, the Town, and the Commission will hereinafter be referred to as the Parties.
7. The Parties agree to the following:
  - A. The proposed turf field project to be located at the athletic field of the Wayland High School (“Field”) shall be constructed as currently planned and in

accordance with the terms and provisions of the proposed Final Order of Conditions attached hereto and made a part hereof (“FOC”);

- B. The Town, in consultation with Wayland 10-Citizen Group, shall hire and pay for an independent consultant (other than Gale Associates, Inc. (“Gale”)) to develop a testing protocol and conduct testing of the leachate from the Field for contaminants associated with leachate from synthetic turf and tires which is likely to have adverse effects on drinking water or wetland resources in the Town. Such testing shall be conducted in each of the three (3) months immediately following installation of Project tire crumb infill and in the summer of 2008. The independent consultant shall timely report its findings to the Administrator of the Town, who shall then share the findings within five (5) business days with a designated representative of Wayland 10-Citizen Group. If the independent consultant concludes that the leachate from the Field is having or is likely to have adverse effects on drinking water or adverse effects on wetlands resources in the Town, then the Town shall take such steps to remediate and/or prevent any such effects in a reasonable and timely manner;
  - C. The Town, in consultation with Wayland 10-Citizen Group, shall hire and pay for an independent consultant hydrogeologist with a minimum three (3) years of low impact and sustainable development experience within four (4) months of completion of testing under Paragraph 7(B.) hereof. The independent consultant will be hired to determine whether the swale and its related components designed by Gale as part of the Project must be modified in scale, scope, and/or efficacy of contaminant removal to prevent potential adverse effects on drinking water or wetland resources, which results shall be shared within five (5) business days with a representative of Wayland 10-Citizen Group. Based upon the independent consultant’s findings, the Town shall make such modifications as are reasonable and appropriate;
  - D. The Town shall endeavor to use commercially available and reasonable non-toxic products in cleaning, disinfecting, maintaining, and repairing the Field, and shall notify an officer or director of the Wayland Board of Health of the application of such products; and
  - E. Presiding Officer Philip Weinberg of the Department’s Office of Administrative Appeals and Dispute Resolution, or his designee, will preside over any material disputes concerning this Agreement that the Parties cannot reasonable resolve through good faith efforts among themselves.
8. Pursuant to M.G.L. c.30A and 310 CMR 1.01 (8)(c), the Parties agree to the issuance of a Final Decision incorporating this Settlement Agreement and the attached proposed FOC (collectively, the “Settlement Agreement”) and submit this Settlement Agreement for approval as required by 310 CMR 1.01(8)(c) in order to finally resolve the above-referenced adjudicatory proceeding as set forth in this Settlement Agreement and to dismiss this appeal forthwith with prejudice. This Settlement Agreement settles and releases all claims of the Parties raised in this adjudicatory proceeding. Upon the

issuance of such Final Decision, the Parties hereby agree that any right to additional administrative review before the Department and to appeal to any Court shall be waived.

9. Wayland 10-Citizen Group, including each of its members, agrees that it will bring no further administrative or legal actions relating to the construction of the Project under Chapter 194 of the Town's Wetlands and Water Resources By-law or under the Wetlands Protection Act, M.G. L. c.131, § 40.
10. No provision of this Settlement Agreement shall be construed as or operate as barring, diminishing, adjudicating, or in any way affecting any legal or equitable right of the Department to enforce this Settlement Agreement, or in any way affecting any other claim, action, suit, cause of action, or demand that the Department may initiate regarding any act or omission not addressed in this Settlement Agreement.
11. This Settlement Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter of this Settlement Agreement.
12. The provisions of this Settlement Agreement and any amendments hereto shall be binding upon the Parties and their respective successors in interest.
13. This Settlement Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts.
14. This Settlement Agreement may be executed in counterparts, each of which when executed and delivered to the Department shall be an original. All counterparts shall constitute one and the same instrument.
15. The Parties voluntarily enter into this Settlement Agreement because each has mutually agreed that settlement of this matter without costly and protracted litigation is in the best interest of the citizens of The Commonwealth and of the Parties and that execution of this Settlement Agreement without such litigation is the most appropriate means of resolving this matter.
16. Applicant shall allow both the Department and the Commission, and their authorized representatives, to enter and inspect the Site as deemed necessary by the Department's authority established under the regulations, at all reasonable times for the purpose of investigating, sampling, or inspecting any records, condition, equipment, practice or property relating to activities subject to this Settlement Agreement
17. The Department is not a party to, and does not assume any liability for, any agreement or other binding obligation entered into by or on behalf of Wayland Boosters, as Applicant, in performing the actions and undertaking the responsibilities assigned to Wayland Boosters, as Applicant, by this Settlement Agreement.
18. All signatories to this Settlement Agreement certify by the signature(s) below that she/he is duly authorized to execute this Settlement Agreement and legally bind their respective parties.

19. The Parties understand that any Final Decision incorporating this Settlement Agreement shall not be subject to 310 C.M.R. 1.01(14)(b).

IN WITNESS WHEREOF the Parties have duly executed this Settlement Agreement.

**MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

\_\_\_\_\_  
Richard J. Chalpin, Regional Director  
Northeast Regional Office

**WAYLAND BOOSTERS ASSOCIATION  
By its Attorneys,**

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

\_\_\_\_\_  
Harvey J. Wolkoff  
Matthew P. Garvey  
Brian R. Blais  
Ropes & Gray LLP  
One International Place  
Boston, MA 02110-2624

**WAYLAND 10-CITIZEN GROUP  
By its Representative,**

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

\_\_\_\_\_  
Kurt Tramosch

**TOWN OF WAYLAND  
By its Attorneys,**

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

\_\_\_\_\_  
Harvey J. Wolkoff  
Matthew P. Garvey  
Brian R. Blais  
Ropes & Gray LLP  
One International Place  
Boston, MA 02110-2624

**WAYLAND CONSERVATION  
COMMISSION**

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

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