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

In the matter of:  
540 Groton Road, LLC and 
Newport Materials, LLC  

File No.: ACO-NE-16-3R004

ADMINISTRATIVE CONSENT ORDER

I. THE PARTIES

1. The Department of Environmental Protection ("Department" or "MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at One Winter Street, Boston, Massachusetts 02108, and its Northeast Regional Office at 205B Lowell Street, Wilmington, Massachusetts 01887.

2. 540 Groton Road, LLC ("Groton Road") is a Massachusetts limited liability corporation with its principal offices located at 31 Milk Street, Suite 501, Boston, MA 02109. Groton Road’s mailing address for the purpose of this Consent Order is the same.

3. Newport Materials, LLC ("Newport Materials") is a foreign limited liability corporation with its principal offices located at 145 Temple Street, Nashua, New Hampshire 03060. Newport Materials’ mailing address for the purpose of this Consent Order is 20 Commerce Way, Westford, Massachusetts 01886.

4. Groton Road and Newport Materials are collectively referred to herein as the "Respondents."

II. STATEMENT OF FACTS AND LAW

5. MassDEP is responsible for the implementation and enforcement of M.G.L. c. 111, §§ 142A-142O and the associated Air Pollution Control Regulations at 310 CMR 6.00, 310 CMR 7.00, and 310 CMR 8.00; M.G.L. c. 131, § 40 and the associated Wetlands Regulations at 310 CMR 10.00; M.G.L. c. 111, §§ 150A and 150A1/2 and the associated Solid Waste Management Regulations at 310 CMR 19.000 and Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00; and M.G.L. c. 21E and the Massachusetts Contingency Plan ("MCP") at 310 CMR 40.0000. MassDEP has authority under M.G.L. c. 21E, § 6 to specify reasonable requirements to regulate activities which may cause, contribute to, or exacerbate a release of oil or hazardous materials, to prevent and control and to counter the effects of such releases. MassDEP also has authority under M.G.L. c. 21A, § 16 and the Administrative Penalty Regulations at 310 CMR
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5.00 to assess civil administrative penalties to persons in noncompliance with the laws and
regulations set forth above.

6. Groton Road is the current owner of approximately 114 acres of land with a street
address of 540 Groton Road in Westford, Massachusetts by virtue of the deed recorded at the
North Middlesex Registry of Deeds in Book 21235, Page 250 (“Land”) and depicted on plans
prepared by LandTech Consultants, entitled “540 Groton Road (Route 40) Westford,
Massachusetts” dated July 21, 2015 (“Plans”)* and last revised April 4, 2016, subject to various
mortgages, ground leases, and easements. Within this Land is an area comprised of 3.35 acres
that is located in the northern portion of the Land and is depicted on Sheet Ex-2 of the Plans.
These 3.35 acres shall be referred to herein as the “Property” or the “Site.”

7. Newport Materials is a lessee of approximately eight (8) acres of the Property pursuant to a
lease recorded at the North Middlesex Registry of Deeds in Book 24562, Page 58 and as amended
at Book 25597, Page 33. Newport Materials is also the operator of the approximately eight (8)
acres of the Property. Finally, Newport Materials is the entity contracted by Groton Road to
arrange for the transport, disposal, storage or treatment of soil and fill materials at the Property.

8. The following facts and allegations have led MassDEP to issue this Consent Order:

A. Respondents have proposed to conduct quarry and gravel pit reclamation
activities on the Property (“Project”).

B. The placement, dumping, disposing or reuse of soil containing oil and hazardous
material (“OHM”) into the environment is a release as that term is defined in
M.G.L. c. 21E § 2. Depending on the site-specific conditions and the nature of
the OHM present in the soil, such releases may have significant adverse human
health and environmental effects.

C. MassDEP has authority under Section 277 of Chapter 165 of the Acts of 2014 to
establish regulations, guidelines, standards or procedures for determining the
suitability of soil used as fill material for the reclamation of quarries, sand pits
and gravel pits. The regulations, standards or procedures shall ensure the reuse of
soil poses no significant risk of harm to health, safety, public welfare or the
environment considering the transport, filling operations and the foreseeable
future use of the filled land.

D. MassDEP has authority under M.G.L. c. 21E, §6 to specify reasonable
requirements to regulate activities which may cause, contribute to, or exacerbate a
release of oil or hazardous materials, to prevent and control and to counter the
effects of such releases.

*The Plans consist of a cover page plus sheets marked as follows: EX-1 and 2 (2 duplicate sets), CP-1 and 2, DS-1,
PROF-1, and SWPPP.
E. MassDEP has authority under M.G.L. c. 21E, § 9 to order potentially responsible parties ("PRPs") to conduct assessment, containment and removal actions, or to require the production or analysis of samples or records, consistent with the requirements of the MCP and as MassDEP reasonably deems necessary. Issuance of an order pursuant to § 9 does not preclude MassDEP from recovering damages, costs, civil penalties, criminal fines and sanctions, injunctive relief, or any action authorized by M.G.L. c. 21E, § 4.

F. M.G.L. c. 21E, §5 sets out liability for the release or any threat of release of oil or hazardous material. This liability includes the owner or operator of a site from or at which there is a release or threat of release as well as any person who at the time of storage or disposal of any hazardous material owned or operated the site at or on which such hazardous material is stored or disposed of and from which there is a threat of release and any person who contracts to arrange for the transport, disposal, storage or treatment of hazardous material to or in a site from or at which there is a threat of a release.

G. Pursuant to M.G.L. c. 21E, §3, MassDEP promulgated the regulations found at 310 CMR 40.0000, commonly known as the Massachusetts Contingency Plan ("MCP").

H. 310 CMR 40.0032(3), known as the “similar soils” section of the MCP, states:

Soils containing oil or waste oil at concentrations less than an otherwise applicable Reportable Concentration and that are not otherwise a hazardous waste, and soils that contain one or more hazardous materials at concentrations less than an otherwise applicable Reportable Concentration and that are not a hazardous waste, may be transported from a disposal site without notice to or approval from the Department under the provisions of...[the MCP], provided that such soils:

(a) are not disposed or reused at locations where the concentrations of oil or hazardous materials in the soil would be in excess of a release notification threshold applicable at the receiving site, as delineated in 310 CMR 40.0300 and 40.1600; and
(b) are not disposed or reused at locations where existing concentrations of oil and/or hazardous material at the receiving site are significantly lower than the levels of those oil and/or hazardous materials present in the soil being disposed or reused.

I. 310 CMR 40.0006 contains the following useful definitions:

Contaminated soil means soil containing oil and/or hazardous material at concentrations equal to or greater than a release notification threshold established by 310 CMR 40.0300 and 40.1600.
Hazardous Material means material, including, but not limited to, any material in whatever form which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. ... The term shall also include, but is not limited to, material regulated as hazardous waste or recyclable material under 310 CMR 30.000.

No Significant Risk means a level of control of each identified substance of concern at a site or in the surrounding environment such that no such substance of concern shall present a significant risk of harm to health, safety, public welfare or the environment during any foreseeable period of time.

Oil means insoluble or partially soluble oils of any kind or origin or in any form, including, without limitation, crude or fuel oils, lube oil or sludge, asphalt, insoluble or partially insoluble derivatives of mineral, animal or vegetable oils and white oil. The term shall not include waste oil, and shall not include those substances which are included in 42 U.S.C. §9601(14).

Reportable Concentration and RC each means the concentration of oil or hazardous material in soil or groundwater which requires notification to the Department under MGL c. 21E, § 7 and/or 310 CMR 40.0360 through 310 CMR 40.0362.

J. On October 2, 2013, MassDEP issued the “Similar Soils Provision Guidance” (WSC#-13-500 or “Similar Soils Policy”). The Similar Soils Policy addresses the specific requirements of 310 CMR 40.0032(3) and the criteria by which a Licensed Site Professional (“LSP”) may determine that soil may be moved without prior notice to or approval from the Department. The Similar Soils Policy is not applicable to the excavation and movement of soil from locations other than Disposal Sites as defined in M.G.L. c. 21E § 2, nor to the management of soils considered Remediation Wastes as defined in the MCP at 310 CMR 40.0006. Moreover, nothing in the Similar Soils Policy eliminates, supersedes or otherwise modifies any local, state or federal requirements that may also apply to the movement or management of soil, for this Project or other similar projects, including any local, state or federal permit or approvals that must be obtained before placing soil at a receiving location.

K. On September 4, 2014, MassDEP issued a revision to Similar Soils Policy. The Similar Soils Policy addresses the specific requirements of 310 CMR 40.0032(3)
and the criteria by which a Licensed Site Professional ("LSP") may determine that soil may be moved without prior notice to, or approval from, the Department. The Similar Soils Policy is not applicable to the excavation and movement of soil from locations other than Disposal Sites as defined in M.G.L. c. 21E § 2, nor to the management of soils considered Remediation Wastes as defined in the MCP at 310 CMR 40.0006. Moreover, nothing in the Similar Soils Policy eliminates, supersedes or otherwise modifies any local, state or federal requirements that may also apply to the movement or management of soil, for this Project or other similar projects, including any local, state or federal permit or approvals that must be obtained before placing soil at a receiving location.

L. On August 28, 2015, MassDEP issued the "Interim Policy on the Re-Use of Soil for Large Reclamation Projects" (COMM-15-01 or "Reclamation Soil Policy") pursuant to Section 277 of Chapter 165 of the Acts of 2014. The Reclamation Soil Policy describes MassDEP’s intent to issue site-specific approvals, in the form of an Administrative Consent Order, to ensure the reuse of large volumes of soil for the reclamation of sand pits, gravel pits and quarries poses no significant risk of harm to health, safety, public welfare or the environment and would not create new releases or threats of releases of oil or hazardous materials.

M. On or about October 26, 2016, Respondents submitted to MassDEP a "Soil Management Plan, Facility Expansion, 540 Groton Road, Westford, Massachusetts" dated October 25, 2016 and prepared by Millennium Environmental, (the "SMP"). The SMP is attached to this Consent Order as Attachment A and is incorporated herein by reference. The SMP establishes the criteria for the acceptance of soil and other fill materials at the Property. The SMP also describes the protocol for monitoring and recording environmental conditions before, during and after Site activities.

N. The Project is intended to provide soil to level and raise the existing grade of a 3.35-acre quarry that is to be located on the Property. Reclamation of the quarry is proposed by importing fill material and grading the area. An estimated 369,119 cubic yards of fill material are proposed for the reclamation project. It is anticipated that the Project will take approximately 4 years to complete based upon the size of the area to be filled, projections of volumes of fill material likely available, and anticipated daily operations at the Property.

O. The Property is in an area zoned by the Town of Westford for industrial use (Industrial A-1A) and 3.35 acres will be for the reuse of soils that meet the Acceptance Criteria specified in the SMP.

P. The Property has other tenant(s) that operate Solar by Westford Solar Holdings and the ABC operation that is run by Newport Materials, LLC that will continue their respective operations while the Project proceeds.
Q. Respondent Newport Materials holds a valid Wetlands Order of Conditions, File #344-1620 to conduct activities at the Project Site.

III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondents hereby consent to, this Order:

9. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondents enter into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondents agree not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

10. MassDEP’s authority to issue this Consent Order is conferred by the statutes and regulations cited in Part II of this Consent Order.

11. Respondents shall perform the following actions:

A. Upon the effective date of this Consent Order, Respondents shall perform any and all activities related to the Project in compliance with M.G. L. c.21E, the MCP the Similar Soils Policy, the Reclamation Soil Policy, and all other applicable local, state and federal laws and regulations.

B. Upon the effective date of this Consent Order, Respondents shall perform any and all activities related to the Project in compliance with the SMP, as amended from time to time with the written consent of all parties.

C. Respondents shall ensure that Project activities do not result in a Condition of Air Pollution with respect to dust, noise and odors pursuant to 310 CMR 7.01.

D. Respondents shall ensure that the Project activities do not result in the alteration of any Areas Subject to Protection under M.G.L. c 131, § 40.

E. Respondents shall install and maintain groundwater monitoring wells and monitor the groundwater quality at these wells in accordance with the SMP to assess potential changes to environmental conditions at the Property during and after the Project.

F. Respondents shall not accept soil and fill materials that exceed or are inconsistent with the Acceptance Criteria defined in the approved SMP.
G. Respondents shall ensure that all reasonable and appropriate steps are undertaken to adequately characterize soil and fill materials accepted and reused at the Property, to ensure compliance with the Acceptance Criteria. At a minimum, this shall include the testing and characterization regimen specified in the SMP.

H. Respondent shall not accumulate any materials on Site that do not meet the Acceptance Criteria delineated in the SMP.

I. Respondents shall ensure that soils and fill materials imported to the Property during the Project, with the exception of loads quarantined or rejected in accordance with the procedures articulated in the SMP, shall not be removed from the Property either during or at any time after completion of the Project.

J. Respondents shall cease accepting soil from a sending site when any load from such site is rejected as a result of field screening; visual or olfactory inspection by Respondents, as specified in the SMP; or soil testing conducted by site workers, the Site LSP, or the Independent Third Party, as specified in paragraph P below, until Respondents receive a written explanation and assurance from the sending site that no additional similar loads will be transported to the Property.

K. Pursuant to the SMP, Respondents shall ensure that soil and fill materials quarantined for soil testing by site workers, the Site LSP, or the Third Party Inspector are either accepted and reused, or rejected and removed from the Property, within thirty (30) days of deposition. Loads of soil or fill materials that are rejected as a result of field screening, visual or olfactory inspection by Respondents, or by analytical testing data results shall be removed from the Property within 7 days. For each rejected load, Respondents shall collect the following information for reporting to MassDEP in the next Construction Status Report:

   i. the reasons the load was rejected;

   ii. the name and address of the hauler;

   iii. the license plate number of the truck/tractor;

   iv. the name and address of the generator; and

   v. the corrective actions taken by Respondents.

L. Respondents shall engage the services of a Licensed Site Professional ("Project LSP") to oversee the activities agreed to in this Consent Order. The Project LSP shall, at a minimum:
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i. Oversee the work for compliance with the SMP and this Consent Order and provide recommendations for corrective actions to Respondents;

ii. Review all Soil Profile Packages, as that term is used in the SMP, and provide written recommendations to Respondents;

iii. Perform the periodic collection and analysis of groundwater samples pursuant to the SMP.

M. Respondents shall comply with the following restrictions:

i. Soil and fill materials approved for use at the property shall contain no more than 5% Asphalt, Brick and Concrete ("ABC") material. Any such ABC material must measure less than 6 inches in any dimension.

ii. Any soil that is brought onto the Site pursuant to this Consent Order shall be used only for quarry reclamation use. Any other use shall be deemed a violation of this Consent Order.

iii. Soil and fill materials approved for use at the property may contain only incidental, randomly dispersed, de minimis quantities of ash and/or Solid Waste (e.g. Municipal Solid Waste and/or Construction and Demolition Waste) as defined in 310 CMR 16.00 and 310 CMR 19.000, which collectively shall comprise less than 1% by volume of the soil and fill materials.

iv. The acceptance of Remediation Waste, as defined at 310 CMR 40.0006, is prohibited.

v. This Consent Order shall serve to authorize Respondent only to fill the Property as it is described in Paragraph 6 above and no other area, parcel or section of the Land beyond that.

N. Respondents shall have an authorized representative on-site on a full time basis to observe off-loading of trucks and perform inspections of the soil and fill materials as specified in the SMP.

O. Respondents shall obtain all applicable local, state and federal permits or approvals that may be required by the Project.

P. Independent Third Party Inspections: Respondents shall engage the services of a qualified, independent individual (the "Independent Third Party") to perform monthly inspections of the Property for compliance with the requirements of this Consent Order including, but not limited to, the SMP, the National Pollution Discharge Elimination System ("NPDES") Multi-Sector General Permit, and
Grading Plan. The Independent Third Party must hold certification as a Massachusetts Registered Professional Engineer or as an LSP, and must be approved, in writing, by MassDEP. Respondents shall be responsible for the timely performance of the activities required of the Independent Third Party in the SMP.

i. The Independent Third Party inspections shall be unannounced and randomly timed during normal operating hours.

ii. The Independent Third Party shall have the authority and shall take the necessary steps to immediately stop work on the Project for any noncompliance with the approved SMP and immediately notify MassDEP.

Q. Respondents shall submit to MassDEP each month a status report ("Construction Status Report") on the status of the Project. The initial Construction Status Report shall be submitted within thirty (30) days of the issuance of this Consent Order but not later than seven days before the date Respondents start construction at the Property. The initial Construction Status Report shall include, without limitation:

i. The projected schedule for the project, including, but not limited to:
   a) Commencement of construction,
   b) Major construction milestones, and
   c) Completion of construction;

ii. The name and contact information for an on-call Property contact; and

iii. The results of the groundwater monitoring in and adjacent to the reclamation area done prior to the commencement of the project, including boring logs and well construction reports for all of the monitoring wells, well elevations, groundwater gauging measurements, tabulated analytical results and laboratory analysis reports with chains of custody.

R. After submittal of the initial Construction Status Report, Respondents shall submit each subsequent monthly Construction Status Report on or before the 15th day of the month until the Project is completed.

i. Each such Construction Status Report shall include, at a minimum, all items specified in the SMP along with the results on any groundwater monitoring conducted during the reporting period.
ii. The Construction Status Report shall be signed by the Project LSP and shall include the following certification signed by Respondents:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties both civil and criminal for submitting false information.

iii. The Construction Status Report shall be electronically submitted to MassDEP using eDEP Transmittal Form BWSC 126, Section B(2), under a Release Tracking Number that will be issued by MassDEP for the site.

S. Respondents shall maintain all slopes to be no steeper than 3:1 horizontal to vertical, during and post-construction.

T. Respondents shall not exceed the maximum elevations shown in the Grading Plan.

U. Respondents shall not place any soils or fill materials within the areas of the Property that are proposed for future mining until these areas have been mined to the proposed extents shown in the Existing Conditions Plan.

V. The final stabilization of the top of the fill and all slopes shall be vegetative cover of a minimum of six inches of topsoil overlaying a minimum of 2 feet of granular fill (fine sandy loam or coarser).

W. Respondents shall notify MassDEP, in writing, if Respondents intend to terminate the Project before achieving the maximum finish grading shown in the Grading Plan. Respondents’ failure to perform Project-related filling activities for any contiguous 6-month period shall be deemed by MassDEP to be Respondents’ termination of the Project.

X. Respondents shall perform the following closure activities upon achieving the proposed fill subgrade elevations, or upon Respondents’ termination of the Project before achieving the proposed fill subgrade elevations:

i. Within 60 days of achieving the proposed fill subgrade elevations or terminating the Project, Respondents shall address all outstanding recommendations made by the Project LSP and/or Independent Third Party;

ii. Within 90 days of achieving the approved fill subgrade elevations or
terminating the Project, Respondents shall stabilize all slopes by applying suitable materials and establishing a vegetative cover or other cover specified in the Grading Plan;

iii. Within 180 days of achieving the approved fill subgrade elevations or terminating the Project, Respondents shall submit to MassDEP an As-Built Plan prepared and stamped by a Massachusetts Registered Land Surveyor or Professional Engineer. The As-Built Plan shall show the final elevations at the Property and any permanent stormwater management features; and

iv. Respondents shall continue monitoring the groundwater in accordance with the SMP.

Y. Respondents shall maintain records of all soil accepted at the Property, including but not limited to Generator applications, Soil Submittal Packages, soil profiles, Project LSP Recommendations and Acceptance/Approval documents, for a minimum of seven years after the completion of the work. Any and all records, including records in electronic and paper form, shall be made available to MassDEP for inspection and reproduction upon request.

12. MassDEP reserves the right to require Respondents to take any and all actions necessary to ensure that the activities conducted at the Property do not cause any nuisance conditions including, but not limited to, dust, noise, odor or wetlands impacts.

13. MassDEP reserves the right to require Respondents to take any and all corrective actions recommended by the Project LSP and/or the Independent Third Party within a reasonable time. Respondents’ failure to complete such corrective actions shall be considered a violation of this Consent Order.

14. For the purposes of this Consent Order, the Project will commence upon the execution of this Consent Order by MassDEP. Soil and fill materials placed, dumped, disposed or reused at the Property prior to execution of this Consent Order are not included in the Project.

15. Unless submitted via eDEP per the requirements of paragraph 11, section R(iii), or except as otherwise provided herein, all notices, submittals and other communications required by this Consent Order shall be directed to:

Eric S. Worrall, Regional Director
MassDEP Northeast Regional Office
205 B Lowell Street
Wilmington, MA 01887

Such notices, submittals and other communications shall be considered delivered by Respondents upon receipt by MassDEP.
16. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondents or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.

17. Respondents understand, and hereby waive, their right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.

18. This Consent Order may be modified only by written agreement of the parties hereto.

19. MassDEP hereby determines, and Respondents hereby agree, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondents to take the actions described.

20. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

21. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to: (a) enforce this Consent Order in an administrative or judicial proceeding; (b) recover costs incurred by MassDEP in connection with response actions conducted at the Site; and (c) recover damages for injury to and for destruction or loss of natural resources pursuant to M.G.L. c. 21E, § 5 or 42 U.S.C. 9601, et seq.

22. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting MassDEP’s authority to: (a) perform response actions at the Site or (b) require Respondents to conduct response actions at the Site or take other actions beyond those required by this Consent Order in order to comply with all applicable laws and regulations including, without limitation, M.G.L. c. 21E and the MCP.

23. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondents with respect to any subject matter not covered by this Consent Order.
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24. This Consent Order shall be binding upon Respondents and upon Respondents’ heirs, successors and assigns. Respondents shall not violate this Consent Order and shall not allow or suffer Respondents’ directors, officers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondents have fully complied with this Consent Order, Respondents shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

25. Respondents shall pay stipulated civil administrative penalties to the Commonwealth in accordance with the following schedule if Respondents violate any provision of this Consent Order:

For each day, or portion thereof, of each violation, Respondents shall pay stipulated civil administrative penalties in the following amounts:

<table>
<thead>
<tr>
<th>Period of Violation</th>
<th>Penalty per day</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st through 15th days</td>
<td>$250.00 per day</td>
</tr>
<tr>
<td>16th through 30th days</td>
<td>$500.00 per day</td>
</tr>
<tr>
<td>31st day and thereafter</td>
<td>$1,000.00 per day</td>
</tr>
</tbody>
</table>

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondents correct the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondents of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondents a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondents’ obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available by reason of Respondents’ failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondents shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondents reserve whatever rights they may have to contest MassDEP’s determination that Respondents failed to comply with the Consent Order and/or to contest the accuracy of MassDEP’s calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondents agree to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

26. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondents shall not constitute a waiver by MassDEP of any of its rights under this Consent
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Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.

27. Respondents agree to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to the Property for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.

28. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.

29. This Consent Order shall become effective on the date that it is executed by MassDEP.

Consented To:
540 Groton Road, LLC
By: Richard A. DeFelice  
Manager  
164 Burke Street  
Nashua, New Hampshire 03060

Federal Employer Identification No.: 46-3368819
Date: November 1, 2016

AND

Newport Materials, LLC
By: Richard A. DeFelice  
Manager  
145 Temple Street  
Nashua, New Hampshire 03060

Federal Employer Identification No.: 26-1672199
Date: November 1, 2016
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Issued By:
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: ___________________________________________
   Eric S. Worrall
   Regional Director
   Northeast Regional Office
   205 B Lowell Street
   Wilmington, MA 01887

Date: November 1, 2016

(ATTACHMENTS)