

We Cannot Let Central Massachusetts Become the Next Flint

UXBRIDGE, MA—In 2014, soil broker Patrick J. Hannon, began a project to dump more than 2.5 millions of tons of contaminated dirt over the high-yield Blackstone Valley Aquifer, which provides drinking water to much of south-central Massachusetts, and northern Rhode Island. Last week, Associate Justice Elaine M. Buckley ordered the operation stopped.

Uxbridge residents are asking how this began in a town that prohibits landfills. The site that was closed on February 6, 2018 was one of two large properties where cease-and-desist orders were issued over a year ago by the rural town.

One location, Rolling Hills, halted operations, as ordered by the town, in February 2017. The second, Green Acres, continued receiving up to 50 trucks per day until the Worcester Superior Court issued a preliminary injunction on February 6, 2018.



Judge Buckley wrote, “The town has a valid interest in ensuring that the soil imported onto the property does not harm the citizens of the town and its ability to monitor that activity by requiring a permit is essential to protect its citizenry from the importation of contaminated soil and fill which would potentially leach into aquifers, wetlands causing permanent damage.”

Newspaper reports showed, the sites had refused inspections by local health and zoning officials. State officials were also blocked from the sites. Correspondence shows concerns were raised by local health

officials to the Massachusetts Department of Environmental Protection.

State documents show, of the thousands of trucks that arrived, independent inspectors only sampled 10 vehicles over 17 months. Up to 60% failed even that minimal review. When a load failed inspection, it was returned. Other materials from the same work site were allowed to stay. While the project was required to have a full-time Licensed Site Professional (LSP), documents verify that loads had been checked by a non-LSP company employee and the contracted LSP engineering firm was not present when trucks arrived.

The receiving licensed engineer was required to perform “olfactory testing”, or a smell test, to determine if soil was safe. Another licensed engineer at the origin was supposed to test one sample every 500-650 cubic yards.

Documents show contaminated soils originated at some of Boston’s largest construction sites. Laboratory testing revealed numerous contaminants including lead, chromium, and petroleum products. Persistent problems with testing methods left enforcement officials unable to confirm the soils were compliant with standards.

A CHANGE IN THE LAW

Before 2014, the Massachusetts Department of Environmental Protection (MassDEP) allowed monitored landfills, operating with state permits and a mandatory 16-point criteria, to close and cap sites with contaminated fill.

The Central Artery “Big Dig” project moved enough material to give MassDEP some new headaches: the landfills were running out of room and prices were going up. With large building projects underway, and lobbying support from real-estate heavyweights, another scheme was devised and passed into law.

Private firms would sort their own soils, based on contamination levels. Soils designated RCS-1 and RCS-2 could be transported to communities outside of Boston and dumped in private, unlined gravel pits and farms. Private companies, paid by the developers and soil operators, would monitor the projects.

The projects were not required to notify MassDEP, but could sign voluntary agreements. Dumping sites did not need to be landfills. Owners did not have to get state permits, line the ground, or monitor the groundwater. There was no testing of local wells.

Public records show a history of political donations in the tens of millions from companies closely associated with the projects. Within three years, Massachusetts opened nine large-scale soil dumps under the scheme.

WHAT HAPPENED IN UXBRIDGE?

In Uxbridge, this created the perfect storm. Two private properties, one zoned for agriculture and one for residential use, attracted the attention of Patrick J. Hannon, a hauler whose companies face more than \$20 million in court judgments and decades of non-compliance with MassDEP. Documents show cease-and desist orders, non-compliance orders and unfinished projects in Wilmington and Chelmsford that left landowners and communities with millions in legal liabilities and clean-up costs.

Two different Uxbridge property owners were approached by Mr. Hannon. Green Acres Reclamation opened on an historic farm owned by Eli Richardson, III. Rolling Hills operated on a property next to the Blackstone River owned by Immanuel, Corp. Mr. Hannon's company, Agritech, and RHR, LLC., a firm run by his son, Patrick J. Hannon, Jr., managed both sites.

At the same time, Mr. Hannon obtained an appointment to the town's Conservation Commission and became its chair. After numerous local complaints, one owner signed an Administrative Consent Order with MassDEP.

In the summer of 2017, a proposed fine of \$19,500 was levied against the project as part of a non-compliance order by MassDEP. It is unclear if that fine was ever collected.

The other dump site, Rolling Hills, remained unmonitored for the life of the project.

Video at the 2016 Uxbridge Fall Annual Town Meeting shows Mr. Hannon saying,



PATRICK J. HANNON, UXBRIDGE CABLE ACCESS

“There’s a full time engineer there 8 hours a day, five days a week from Conoco engineering . . . Com 97-01 is a policy that allows soils to go to unlined landfills for grading and shaping for closure. I helped write the policy . . . There was a quarry that wanted to be filled in West Roxbury . . . I went to the quarry meetings and as a result of those quarry meetings HB 277 was written that requires a consent order.”

“I helped write that legislation for Senator Rush. Call him and ask him . . . These soils could be used at any playground, any daycare, anywhere . . . The [soil dump site at the] quarry in Dudley is even closer to a Tier 2 waterway, which is also a surface water supply . . . “

“If you don’t have town water near your house, and that is a good portion of this town, everyone has a potentially productive drinking water supply area. That’s your aquifer. Your own private aquifer.”

<http://archive.uxbridgetv.org/Video/2445> : 1:31

While it may be unclear what Mr. Hannon intended by ‘private aquifers’, “potentially productive water supplies” is term generally used when designating potential municipal wellheads. In Uxbridge, as in much of the Blackstone Valley, the majority of of people use private wells, not municipal water. Locating potentially hazardous activities based on maps of municipal water supplies fails to protect the majority of local households. This region depends on the vitally important Blackstone Valley Aquifer.

Smaller communities, with few resources, can experience difficulties

enforcing local laws against large, sophisticated operations. Local landowners may be at the mercy of soil operators who promise hefty profits.

Court records reveal large awards for damages and millions of dollars in potential liability from past projects. A case study of a previous project in Chelmsford identified \$12.5 million in potential liability. Former business partners in Ware, Chelmsford, and Wilmington spent decades in court.

Allegations of misconduct at other soil operations appeared in an email Mr. Hannon wrote September 27, 2016 to George LaMonthe and that was copied to the MassDEP Commissioner, Martin Suuberg.

Hannon wrote, “Dudley is filing false weight tickets and accepting remediation waste, two of the five wells in Dudley were existing irrigation wells “not constructed to monitoring well standards, no installation logs for any of the wells.” Hannon continues, “The Dudley site is not just non compliant, it is engaging in criminal activities falsifying documents to conceal the true nature of the soils.” Hannon’s then observes, “I have been reviewing the Rutland files on the DEP file viewer, if you match the requirements of the ACO to what is actually done it is even worse than Dudley.”

Uxbridge passed monitoring provisions, a permit requirement, and fought in court for a year to enforce health and safety regulations. Other communities, after hearing of Uxbridge’s experience, including Middleboro, quickly passed local ordinances to prohibit these types of operations. Judge Buckley confirmed local communities have the duty and legal right to protect public resources, health, and safety.

As the Uxbridge projects face court enforcement, RHR, LLC., a firm run by Hannon’s son, Patrick J. Hannon, Jr. is actively advertising in municipal publications with promises of up to \$60 million in payments to local governments. Mr. Hannon (Sr.) continues to operate under a variety of corporate entities, including Agritech.

Large corporations, including General Electric, are now asking the EPA for permission send Housatonic river dredgings, laden with



775 MILLVILLE ROAD, UXBRIDGE, MA, JUNE 2015, GOOGLE MAPS

PCBs, to local landfills rather than to out-of-state, licensed disposal facilities. A February 8, 2018 letter from Senator Elizabeth Warren and Representative Ed Markey said GE estimates it could save the company \$250 million.

Local communities rely on timely enforcement from MassDEP, an agency that has chronic staff shortages. Soil operations and large developers may have close associations with regulators over many projects. MassDEP's enforcement role can conflict with its efforts to promote growth.

On June 14, 2006, the Mass. State Ethics Commission fined MassDEP employee Michael Rostkowski \$10,000. Rostkowski was tasked with enforcing an Administrative Consent Order (ACO) at a Hannon landfill capping project in Wilmington. In February 2001, Rostkowski left MassDEP to work for Hannon on the same project he had supervised for the state, an ethics violation.

Hannon's many companies have faced reviews, fines, and enforcement actions from various state agencies, including the Attorney General's office and MassDEP. Documents show a history of failing pay prevailing wage to Big Dig transport drivers, non-compliance with a consent order

in Chelmsford, and non-compliance with a consent order in Uxbridge, multiple cease-and-desist orders, and multiple court awards for failing to pay contractors and vendors. MassDEP has no authority to limit companies with similar histories from continuing to operate in Massachusetts.

Local governments are largely left to regulate the industry on their own. Communities, who often share large aquifers and regional water sources, have limited reach as they try to protect their residents. Contamination in one community can directly impact neighboring towns and cities.

All businesses have a legal duty to operate safely and not create a public nuisance. Judge Buckley agreed that an operation should never be allowed to put at risk any community's precious resources, health, or safety.

We cannot depend on firms with clear conflicts of interest, multiple violations, and an ecosystem of perverse incentives to self-regulate. Projects must have robust supervision, fully-licensed managers, strong state supervision, and operate safely away from aquifers and other sensitive water resources, whether public or private. Operators, managers, and haulers must share liability with dumpsite owners.

Water is a shared resource that is vital to the life of every community. Action is needed now to protect all Massachusetts communities.

Our health and safety depend on it.

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Supporting documents: *Available by request*