

## Q & A

**Q 4/10/13:** In anticipation of the DEM action plan implementation in the next few days, Citizens Advocating for a Safe Environment (CASE) would like to bring a few concerns to your attention. Some of these concerns have been ongoing while others are more recent observations. We have listed these concerns below.

· We observed a large amount of sea shells dumped on top of a pile behind the Pasteryak Asphalt plant (photo included with this email). We wonder why seashells would be located in this area which is approximately 45 minutes from the shore. DEM can access this area by walking toward the industrial park, through the wooded area at the end of Sandra Circle (Westwood Estates).

· There are large amounts of old asphalt piled in and around the industrial park. There are also piles of broken/unused concrete located on the “Skurka” property within the park (this property is currently for sale or lease). The Skurka property can be accessed immediately to the right after entering the industrial park. Specifically, there is a large pile of old asphalt that has appeared/grown over the past few months and several piles of concrete located on Skurka’s property. The pile of old asphalt can also be viewed from Milton Lane, the last street on the right just before entering the industrial park. (Photos are included with this email).

· A special-use permit application has been filed with the Coventry Zoning Board to expand or relocate Mike’s Professional Tree Service (operated by Michael Baird) from their current location at 17 Reservoir Road to the Skurka property at 75 Airport Road. This lot has at least one pond and supports area wildlife. There is great concern that runoff from the commercial tree service could impact the pond and the wildlife in the area. Further, the current operation at 17 Reservoir Road houses tanks which appear to be gasoline/diesel or other petroleum products. These products, if not handled properly, are a serious threat to the groundwater reservoir that runs beneath the 75 Airport Road industrial park, and surrounding wetlands. Mike’s Professional Tree Service has a reputation as a perpetual violator within the Town of Coventry, other area towns and the DEM.

· We are concerned that one or both of the asphalt plants are exceeding their production limits. One of the plants is permitted to operate 30 days overnight to service RIDOT contracts, which increases their production during the season. Further, the Coventry Town Solicitor recently ruled that asphalt is considered manufacturing. This is significant because our Town Council has told CASE that this will allow the asphalt plants to operate 24 hours per day, 7 days per week. We are unsure how this impacts their previously permitted 30 days overnight stipulated by a 2010 Consent Order issued by the courts.

· Residents continue to complain about noxious odors coming from the asphalt plants. The complaints continued into December, 2012 when the plants closed for the season and have started again in recent days with the plants opening. We are particularly concerned for the residents in this area that have respiratory ailments and those on oxygen. Children are especially at risk with the excessive odors. There are several residents on Lisa’s Way and Sandra Circle (approximately 300-400 feet from the plants) in these high risk groups.

· CoPar Quarry trucks are transporting material into the 75 Airport Road industrial park. While this in itself may not be unusual, we are mindful of the issues in the Westerly area with CoPar. We would like the DEM to be aware of this situation as they try to correct the problems with CoPar in the southern part of Rhode Island.

· Miozzi, Inc. trucks have been leaving 75 Airport Road full of material and emptying their loads at Mr. Miozzi’s graveling operation on Town Farm Road in Coventry. The material appears to be soil, based on photographs take by Town Farm Road residents observing this activity. DEM should be aware that Tom Miozzi, under the name of Green Light Farm, LLC currently has a special-use permit under consideration by the Coventry Zoning Board to operate a landing strip on the Town Farm Road property. The Zoning Board’s decision is expected on April 10, 2013.

· According to Sage Environmental’s status report on their testing contract with the Town of Coventry, there appears to be solid waste and wetland violations at the 75 Airport Road industrial park. We previously provided you with a copy of this status report.

**A 4/15/13:**

- *Sea shells that are clean of meat are not considered solid waste. The DEM inspectors will determine whether the shells are clean of meat when we inspect the plants in the next few weeks.*
  - *Used asphalt and concrete are not considered solid waste.*
  - *The DEM has no authority to prevent Mike's Professional Tree Service from relocating to the park. The company would be obligated to obtain any and all permits necessary to protect wetlands and waters located on and off the property (including groundwater) prior to operating the business. If the business does relocate to the park and the residents observe that the company is operating, the DEM will investigate any complaints received (and, of course, absent any complaints the DEM will address any issues that the inspectors observe during our inspections)*
  - *DEM has no authority over the hours of operation of the asphalt plants. This is a local issue.*
  - *As noted in the action plan that DEM provided to the residents and town officials on 3/5/13 (ACTION PLAN), DEM will be further investigating the odors.*
  - *The issues in Westerly involving Copar quarry have to do with mining the rock from the quarry, not the material itself. The rock, sand and gravel that the quarry produces are not regulated by the DEM, unless placed in a wetland or waterbody or placed in a manner that allows dust to migrate beyond the property line.*
  - *DEM is aware of the proposed activity at the Town Farm Road property in Coventry. An investigation is ongoing regarding allegations of unauthorized wetland alterations.*
  - *The DEM inspectors will be looking into whether any solid waste, wetland or other violations are present at the 75 Airport Road property as noted in the ACTION PLAN.*
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**Q 4/17/13:** Thank you for your quick response to our email dated April 10, 2013. In looking over your comments, we have a few clarifying remarks.

Sea Shells:

The significance of the sea shells at 75 Airport Road relates to residents' observing large amounts of sand suddenly appearing at 75 Airport Road after Hurricane Sandy. We understand that if the shells are "clean of meat" they would not constitute solid waste. We merely question why sea shells would be present in this area given their location away from the coast. Our view is that a large amount of beach sand, which we are advised was considered to be contaminated, was brought to the asphalt plants and used in making product.

Used Asphalt and Concrete:

While used asphalt and concrete may not be considered solid waste, they would contain volatile organic compounds (VOCs) that can leach into the groundwater. As you may remember, the industrial park at 75 Airport Road in Coventry is located on top of a groundwater reservoir, adjacent to wetlands, in close proximity to a wellhead protection area, and portions of the park are located in a FEMA flood zone. These materials also contain oil and other contaminants that can leach into the groundwater and wetlands. As to the volatile fractions of the VOC's, which would also be released into the environment, these also cannot be considered "clean". Further, these products produce dust that is carried through the air to nearby homes. Perhaps DEM inspectors would like to take some samples of the dust accumulating on resident's homes, cars and outdoor furniture. If you would like to add this to your action plan, please let us know and we can contact residents.

Mike's Professional Tree Service:

Notifying the DEM of the potential relocation of Mike's Professional Tree Service was to keep your office abreast of proposed changes at 75 Airport Road which is an environmentally sensitive area. Not only do we have great concern over potential runoff and contamination of the pond located on the property, Mike's stores gasoline/diesel on his current location at 17 Reservoir Road. Residents have notified us that they are

concerned over what appears to be a dark area next to the tanks containing these products at his current location. If a spill or leak occurs at the proposed location, wetlands, groundwater and other bodies of water could be harmed. We would like to know what DEM permits would be required for a business such as Mike's Professional Tree Service and when must the permit be issued.

Copar Quarry:

Our concern over the movement of material from Copar Quarry in Westerly to 75 Airport Road relates to the dust that is generated from the transport of the material and from the uncovered material when dumped at the Airport Road site. Residents have observed uncovered Copar trucks containing large boulders traveling on Reservoir Road. These loads are then emptied at the industrial park, resulting in a transfer of dust from the Westerly location to the Coventry location. Residents in the abutting neighborhood are reporting significant dust from the industrial park.

Finally, CASE would like to know what DEM's policy is relating to location/expansion of asphalt operations in environmentally sensitive areas. Has the Department obtained in the past, or plan on seeking in the future, any legal advice on how to effectively regulate these operations? As you know, there is significant judicial activity centered on the so-called "grandfathered rights". Since the courts clearly feel that "grandfathered" properties should be brought into compliance as soon as legally possible, we would like to know if DEM has any plans to address this problem either by policy or legislatively.

**A 4/22/13:**

Sea Shells: *I understand the concern. The inspectors will check to see if there is any contaminated sand stockpiled on the property.*

Used Asphalt and Concrete: *My prior email should have been clearer. By statute, used asphalt and concrete are NOT solid waste. Used asphalt and concrete can be used or stockpiled or buried without any restrictions provided that the material isn't deposited into any wetlands. The specific statute is § 23-18.9-7 (12), which defines solid waste as: garbage, refuse, tree waste as defined by subsection 14 of this section and other discarded solid materials generated by residential, institutional, commercial, industrial, and agricultural sources, but does not include solids or dissolved material in domestic sewage or sewage sludge or dredge material as defined in chapter 6.1 of title 46, nor does it include hazardous waste as defined in chapter 19.1 of this title, nor does it include used asphalt, concrete, or Portland concrete cement.*

*If the material is causing dust to migrate from the property, DEM has the authority to require the owner to take actions to mitigate the dust.*

Mike's Professional Tree Service: *If the company continues its current business practice at this new location, it may need a storm water permit and an air permit. It would have to obtain those permits prior to beginning operating. DEM inspected the company's business on October 2, 2012 in response to a complaint about leaking drums of chemicals. The inspector didn't observe any leaking drums or staining on the ground. The company generates used oil. The inspector observed violations associated with the storage of the used oil (that is, improper labeling and disposal of used oil filters). A follow up inspection by DEM on November 1, 2012 revealed that the company had corrected the violations.*

Copar Quarry: *The dust generated by truck traffic is not regulated by the DEM. The dust generated at the property is regulated by DEM as noted above.*

*With regard to your question about DEM's policy relating to location/expansion of asphalt operations in environmentally sensitive areas, the location and operation of asphalt plants is not within DEM's authority to regulate. This is strictly a local issue. DEM regulates these plants pursuant to the environmental statutes and DEM's regulations regarding air pollution, water pollution and hazardous waste.*

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**Q 5/22/13:** Thank you once again for taking the time to answer our questions about the odor from the Coventry asphalt plants. Below are the follow up questions.

Expiration Dates:

What are the expiration dates for the permits issued to T. Miozzi, Inc. and Pasteryak Asphalt?

Production Limits:

Does combining the production limits for the two plants exceed a healthy level given that we have 2 plants on the same parcel of land? When the permits were issued specifying emission guidelines, did DEM consider that fact that the two plants were located side by side?

Groundwater:

We would like the risk to the groundwater reservoir (located under 75 Airport Road industrial park) reviewed. Knowing that other municipalities limit the type of industrial activity in environmentally sensitive areas, we would like the risk to our water supply from the 75 Airport Road industrial operations evaluated by the water resource division.

Fuel:

Along with a review of the fuel certificates for the two asphalt plants, we would like to have samples of the fuel tested to determine if they are consistent with the fuel certificates. We ask this based on Senator Raptakis's concern that "bunker fuel" is being used, thus accounting for the extreme noxious odors.

Wetlands:

Along with considering whether any recent wetland violations have occurred at the 75 Airport Road industrial park, could DEM review the wetland maps from the early 1970s to the current date and determine if the wetlands have been compromised?

EPA:

When the EPA visited the asphalt plants, did their inspectors detect odors?

**A 6/10/13:**

Expiration Dates: *Pasteryak Asphalt is covered under Emissions Cap No. 38-2012 which states on its cover page "This emissions cap shall be effective from the date of its issuance and shall remain in effect until revoked by or surrendered to the Department." T. Miozzi is covered under Minor Source Permit Approval Nos. 1895, 1971 & 2021 which also has the following statement on its cover page "This permit shall be effective from the date of its issuance and shall remain in effect until revoked by or surrendered to the Department."*

Production Limits: *No air pollution control permit approvals issued pursuant to Regulation 9 nor Emission Caps issued pursuant to Regulation 29 contain expiration dates, therefore, there are no expiration dates for either source.*

*At the time of issuance of the Emissions Cap and Minor Source Permit the proximity of both facilities to each other was taken into consideration by DEM and they were treated as one source during the permitting process. Production of asphalt at each facility was limited to ensure that the emission rates from both facilities combined, did not exceed any standard as allowed under our regulations.*

Groundwater: *None of the investigations that DEM has performed to date reveal any concerns with groundwater contamination. No spills or other activities were observed that are typically associated with groundwater contamination (i.e. underground fuel storage tanks, discharge of process water to the surface or subsurface, or spillage of fuels or other chemicals to the ground surface)*

Fuel: Neither of the facilities is permitted to use “bunker fuel”. There is no evidence at this time for the DEM to believe “bunker fuel”, which is equivalent to no. 6 fuel oil, is being used at either of the plants. The reason it is highly unlikely they would use bunker fuel is because of its viscosity. It must be stored in a heated tank kept at approximately 100°F to keep it liquid enough so that it can be pumped into the burner. When it is being pumped to the burner the temperature must be increased to approximately 150°F to 200°F for combustion purposes. The permit for the Pasteryak is required under its Emissions Cap to burn only No. 2 fuel oil. There is no sulfur limit in the permit or Emissions Cap. The Emissions Cap does not require Pasteryak to submit to DEM or maintain any records of fuel usage. The permit for T. Miozzi requires it to burn either No. 2 fuel oil with no more than 0.3% sulfur by weight or an alternative fuel with no more than 0.5% sulfur by weight. The permit requires the company to maintain records of the quantity and type of fuel used. The company is also required to submit to DEM each alternative fuel certification and has submitted certifications to DEM. Fuel certifications for the T. Miozzi facility are reviewed by OAR staff upon receipt. Twenty certifications were submitted for 2012 and, to date, three for 2013. No violations have been documented.

Wetlands: **DEM is still investigating this issue.**

EPA: The EPA inspector was accompanied by a DEM inspector on both of the facilities inspections. The inspections were conducted on two separate dates. No odors were detected off the facilities sites during either of the inspections.

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