



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

January 13, 2016

Philip Demoranville  
King Fisher Corp.  
56 Precinct Street  
Lakeville, Massachusetts 02346

RE: **DARTMOUTH-BWP/SWM**

756 Fisher Road  
Facility # 301784  
**UNILATERAL ADMINISTRATIVE  
ORDER (#UAO-SE-16-4001)**

**THIS IS AN IMPORTANT NOTICE  
FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE  
COULD RESULT IN SERIOUS LEGAL CONSEQUENCES**

Dear Mr. Demoranville:

On October 9, 2015 Massachusetts Department of Environmental Protection ("MassDEP") inspected King Fisher Corp. in Dartmouth (the "Site") in response to odor complaints on Fisher Road. During the investigation inspectors observed large piles of shells with meat still attached to them, large pile of odorous sand that Mr. Demoranville said originated from Seawatch in New Bedford and stockpiles of cranberry waste that were being spread on grassy fields. MassDEP considers these materials solid waste as defined by 310 CMR 19.006.

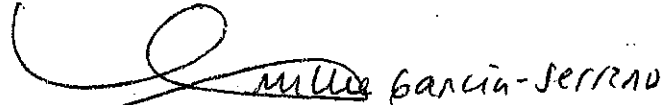
The Unilateral Administrative Order ("UAO") describes the acts of noncompliance as well as the actions that must be taken in order to achieve compliance with the applicable regulatory requirements as prescribed under M.G.L. c.111, §§ 150A and 150A1/2 and the Departments Solid Waste Management Regulations at 310 CMR 19.000 and 310 CMR 16.00.

The Department reserves its right to take additional enforcement measures against you based upon past, current and future violations. Additional enforcement measures may include referral of the matter to the Massachusetts Attorney General's office and/or the assessment of Administrative Penalties under M.G.L. c.21, §5.

Attached is a UAO detailing the actions that need to be taken. The document should be self-explanatory. MassDEP will shortly issue a Notice of Enforcement Conference letter relative to the removal of solid waste from the Site.

Please direct any questions regarding this matter to MassDEP at the letterhead address, or telephone Mark Dakers at (508) 946-2847 or Colleen Ferguson at (508) 946-2832.

Very truly yours,

  
Mittie Garcia-Serrano  
Southeast Regional Director

G/CF

CERTIFIED MAIL #

cc:

Dartmouth Board of Health  
[cmichaud@town.dartmouth.ma.us](mailto:cmichaud@town.dartmouth.ma.us)

MDAR  
[sean.bowen@state.ma.us](mailto:sean.bowen@state.ma.us)  
[gerard.kennedy@state.ma.us](mailto:gerard.kennedy@state.ma.us)

DEP SERO  
M Dakers  
M Pinaud  
L Ramos

DEP Boston  
R Blanchet

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

IN THE MATTER OF )

King Fisher Corp. )  
56 Precinct Street )  
Lakeville, Massachusetts 02346 )

RE:DARTMOUTH- BWP/SW

756 Fisher Road

310 CMR 19.000 310 CMR 16.00

**UNILATERAL ADMINISTRATIVE  
ORDER**

**FILE# UAO-SE-16-4001**

**I. THE PARTIES**

1. The Massachusetts Department of Environmental Protection ("MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts, established pursuant to M.G.L. c.21A, §7. MassDEP maintains its principal offices at One Winter Street in Boston, Massachusetts and a regional office at 20 Riverside Drive in Lakeville, Massachusetts.
2. King Fisher Corp. ("owner/operator") is a corporation with a place of business at 756 Fisher Road, Dartmouth, Massachusetts. King Fisher Corp.'s mailing address is 56 Precinct Street, Lakeville, Massachusetts 02347.

**II. STATEMENT OF FACTS AND LAW**

3. MassDEP is responsible for the implementation and enforcement of M.G.L. c.111, §150A and §150A 1/2, and the Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00, and the Solid Waste Regulations at 310 CMR 19.000, as promulgated thereunder. MassDEP is authorized to issue this Unilateral Administrative Order (the "UAO") pursuant to 310 CMR 19.081.
4. King Fisher Corp is a private agricultural waste composting operation. King Fisher Corp. holds an Agricultural Composting Registration # 69 with the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs, Department of Agriculture Resources for the agricultural

composting operation located at 756 Fisher Road, Dartmouth, Massachusetts. The Registration will expire on March 31, 2016.

5. On October 9, 2015, in response to odor complaints on Fisher Road in Dartmouth, MassDEP inspectors visited the Site with Massachusetts Department of Agriculture (MDAR) and Dartmouth Health Department. Inspectors observed stockpiling of large piles of shells that contained meat, stockpiling of large pile of odorous sand that Mr. Demoranville said originated from Seawatch in New Bedford and stockpiles of cranberry waste that were being spread on grassy fields. These activities are not composting per MDAR registration. MassDEP considers these materials solid waste and the above activities a violation of 310 CMR 19.014 and 310 CMR 16.01 (8) (a).
6. Pursuant to 310 CMR 19.014(1) "310 CMR 19.014: Prohibition on Open Dumps and Dumping Grounds and Illegal Disposal of Solid Waste (1) No person shall establish, construct, operate or maintain a dumping ground or operate or maintain a landfill in Massachusetts in such manner as to constitute an open dump. For the purpose of 310 CMR 19.014, the phrase "establish, construct, operate or maintain" shall include without limitation, disposing or contracting for the disposal of refuse in a dumping ground or open dump".
7. Pursuant to 310 CMR 16.01 (8) "(a) Violations. It shall be a violation of 310 CMR 16.00 for any person to: 6. Handle or dispose of solid waste at any location that does not have site assignment, except as may be allowed pursuant to 310 CMR 16.03".
8. King Fisher Corp. accepted solid waste at the Site without a valid site assignment in violation of 310 CMR 16.01(8) (a) 6 and created a dumping ground of solid waste in violation of 310 CMR 19.014(1) by stockpiling solid waste.

### III. DISPOSITION

For the reasons set forth in Section II above, and pursuant to the authority granted to MassDEP by 310 CMR 19.081, MassDEP hereby issues this UAO against King Fisher Corp. as the responsible party at the Site.

9. This UAO identifies specific actions that must be undertaken in order to achieve and maintain compliance with applicable requirements.
10. The terms and conditions of this UAO will take effect on the Effective Date of the UAO.
11. The Effective Date of the UAO will be the date of signature and issuance by MassDEP.
12. Nothing in this UAO shall be construed as, or operate as, barring, diminishing, adjudicating, or in any way affecting any legal or equitable right of MassDEP to issue any future Enforcement Action with respect to the subject matter covered by this UAO, or in any way affecting any other claim, action, suit, cause of action, or demand which MassDEP may initiate.
13. The activities conducted pursuant to this UAO are subject to approval by MassDEP and King Fisher Corp. shall comply with all other applicable federal, state and local laws. Any non-compliance with the requirements and provisions of applicable federal, state and local laws, regulations and approvals which delays the achievement of any performance deadline set by this UAO shall constitute a violation of this UAO.
14. This UAO shall apply to and be binding upon King Fisher Corp. and their respective successors, heirs and assigns. No change in property ownership or tenancy will alter in any way the responsibility of King Fisher Corp. under this UAO. A signed copy of this UAO shall be provided to any successor, heir or assign.
15. King Fisher Corp. shall not violate this UAO and shall not allow their successors, heirs, agents, or contractors to violate this UAO.
16. MassDEP is not aware of any industry conditions or pending legislative or regulatory changes that would affect the applicability of this UAO.

#### **IV. ORDER**

17. King Fisher Corp. shall implement the following actions:

- A. Immediately, upon the Effective Date of this UAO, King Fisher Corp. shall cease accepting solid waste for disposal at this Site. King Fisher Corp. shall stop receiving shells that contain meat, odorous sand and cranberry waste for spreading on the grassy fields.
- B. Immediately, upon the Effective Date of this UAO, King Fisher Corp. shall implement whatever measures necessary to prevent the emissions of offensive odors and/or nuisance conditions and/or the unpermitted discharge of pollutants to the environment.
- C. Within 30 days of the Effective Date of this UAO, King Fisher Corp. shall submit to MassDEP a plan detailing how the owner/operator intends to manage the on Site waste in accordance with 310 CMR 16.00 and 310 CMR 19.000.

#### V. ADDITIONAL PROVISIONS

- 18. MassDEP shall have the power to extend or waive any deadline, time period, term, or condition contained herein as MassDEP, in its sole discretion, may deem fit, provided, however, that no extension or waiver will be effective which contravenes any provision of any applicable statute or regulation.
- 19. Nothing in this UAO shall be construed as, or operate as, barring, diminishing, adjudicating, or in any way affecting MassDEP's rights pursuant to any other statute nor the proponent's obligation to comply with the requirements of that same statute.
- 20. Except where otherwise specified, each submittal required by this UAO shall be made to:

Massachusetts Department of Environmental Protection  
Southeast Regional Office  
20 Riverside Drive  
Lakeville, Massachusetts 02347  
ATTN: Mark Dakers

#### VI. APPEAL RIGHTS

- 21. You have a right to appeal this UAO. To appeal the UAO, a written notice of claim shall be filed within twenty-one (21) days of the date of service of this UAO in accordance with 310 CMR

19.081(5) and (6) and 310 CMR 1.01(6).

22. Any request for an adjudicatory hearing on this UAO shall clearly and concisely state the basis for the request subject to and in compliance with the applicable provisions of 310 CMR 1.00.

23. Any request for a hearing must be sent with payment of the applicable Appeal Filing Fee of one hundred dollars (\$100.00) pursuant to 310 CMR 4.06. Payment must be by certified check, cashier's check, or money order payable to the Commonwealth of Massachusetts, Department of Environmental Protection. The nine-digit File Number on the first page of this enforcement document (#UAO-SE-16-4001) should be clearly printed on the face of the certified check, cashier's check or money order. Failure to do so could delay the crediting of your payment and thereby jeopardize your request for appeal. Send your request for a hearing and the filing fee to MassDEP as follows:

HEARING REQUEST:           Docket Clerk  
  Office of Administrative Appeals  
  Massachusetts Department of Environmental Protection  
  1 Winter Street, 3<sup>rd</sup> floor  
  Boston, MA 02108

FILING FEE:                    Massachusetts Department of Environmental Protection  
  Commonwealth Master Lockbox  
  P.O. Box 4062  
  Boston, MA 02211-4062

24. Your hearing request will be dismissed if the filing fee is not paid, unless you are exempt or granted a waiver from the fee. Cities, towns, municipal housing authorities and other municipal authorities are exempt from the filing fee requirement. MassDEP may waive the filing fee for any person who demonstrates that paying the fee will create an undue financial hardship. To seek a waiver, you must file with your request for a hearing a statement of the facts supporting your claim of financial hardship.


25. If you do not file a timely appeal, this UAO will remain in effect.

**VIII. EFFECTIVE DATE**

27. The UAO is hereby issued and effective on the date signed by the MassDEP.

**MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DATE: January 13, 2016

BY:   
Millie Garcia-Serrano  
Millie Garcia-Serrano, Regional Director