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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

DEPARTMENT ORDER

IN THE MATTER OF

CHAMBERLAIN PROPERTIES, LLC
Saco, York County
ROSS RIDGE SUBDIVISION
L-23482-39-A-N (approval)
L-23482-L6-B-N

) SITE LOCATION OF DEVELOPMENT ACT
) NATURAL RESOURCES PROTECTION ACT
) STREAM ALTERATION
) WATER QUALITY CERTIFICATION
) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 481 et seq. and 480-A et seq., and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of CHAMBERLAIN PROPERTIES, LLC with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant is seeking approval for a proposed 111-unit residential subdivision on an approximately 70.6-acre parcel of land, all as shown on a set plans, the first of which is entitled "Ross Ridge," prepared by Sebago Technics Inc., and dated September 14, 2006, with a last revision date of May 14, 2007. The proposed project consists of 43 single-family lots, ranging in size from 0.28 to 0.69 acres, twelve duplex units in six buildings, 32 four-plex units in eight buildings, and 24 townhouse units in four buildings, a community center, three open space lots with walking trails and a park. The project site is located on the south side of Ross Road and at the end of Woodman Avenue in the City of Saco.

The project will be constructed in three phases. Phase I includes the construction of the Through Road connecting Ross Road and Woodman Avenue, with construction entrances proposed at both Ross Road and Woodman Avenue. Also included in Phase I is the construction of utilities and the stormwater management system along Through Road, single-family lots 1-18, and condominium units 33-68 on lots 48-50. Phase II includes the construction of the townhouses, single-family lots 19-21 and 39-43, the remaining condominium units, the access roads adjacent to these units and their associated utilities and stormwater management system. Phase III includes the remaining road system, single-family lots 22-38, the community center, and the utilities and stormwater management system for these units.

The applicant is also seeking approval under the Natural Resources Protection Act (NRPA) to culvert approximately 135 linear feet of stream channel, and to fill approximately 675 square feet of wetlands of special significance associated with the

stream crossing to construct the 25-foot wide Through Road. The applicant also proposes to alter an additional 7,437 square feet of wet meadow and forested wetlands to construct the Through Road, driveways, and access roads. The roads cross the wetlands at eight locations. The crossings are shown on the set of plans referenced above.

B. Current Use of Site: The site of the proposed project is currently undeveloped fields, woodland, and wet meadow and forested wetlands. There are no structures on the property.

2. FINANCIAL CAPACITY:

The total cost of the project is estimated to be \$3,365,000. The applicant submitted a letter from the Saco & Biddeford Savings Institution, dated November 20, 2006, stating that Elliot Chamberlain, Manager of Chamberlain Properties, LLC has the financial wherewithal to complete the proposed project. Prior to the start of construction, the applicant must submit evidence that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State or evidence of any other form of financial assurance determined by Department Rules, Chapter 373(1), to be adequate to the Bureau of Land and Water Quality (BLWQ) for review and approval.

Provided additional financial information is submitted as outlined above, the Department finds that the applicant has demonstrated adequate financial capacity to comply with Department standards.

3. TECHNICAL ABILITY:

The applicant provided resume information for key persons involved with the project and a list of projects successfully constructed by the applicant. The applicant also retained the services of Sebago Technics, Inc., a professional engineering firm, to assist in the design and engineering of the project.

The Department finds that the applicant has demonstrated adequate technical ability to comply with Department standards.

4. NOISE:

The Department finds that no regulated sources of noise have been identified.

5. SCENIC CHARACTER:

The project site is comprised of wetlands and woodland visible from public streets, including Interstate I-195. Existing forested buffers will be maintained between the development and the Interstate. The layout of the development provides a 75-foot wide visual buffer between the project and the existing residential development at the end of

Woodman Avenue. The proposed project consists solely of residential lots and open space.

Based on the project's location and design, the Department finds that the proposed project will not have an unreasonable adverse effect on the scenic character of the surrounding area.

6. WILDLIFE AND FISHERIES:

The Maine Department of Inland Fisheries & Wildlife (MDIFW) reviewed the proposed project. In its comments, MDIFW stated that it found no records of any Essential or Significant Wildlife Habitats, or other wildlife habitats of special concern associated with this site.

In the southern portion of the parcel, a stream flows northwest to southeast and discharges into Goosefare Brook off the property. The applicant proposes to culvert approximately 135 linear feet of stream channel to construct the Through Road. The proposed 24-inch by 38-inch elliptical culvert will be set one foot below the bottom of the stream channel. The culvert crossing is approximately 150 feet downstream from the headwaters of the stream. The proposed stream crossing must be installed during low flow conditions between July 1 and September 30 of any calendar year.

No fisheries concerns were identified because the only on-site stream will be protected as outlined in Finding 8.

The Department finds that the stream crossing will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries, or other aquatic life provided the stream crossing is installed during low flow conditions between July 1 and September 30 of any calendar year.

The Department finds that the applicant has made adequate provision for the protection of wildlife and fisheries.

7. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The Maine Historic Preservation Commission (MHPC) reviewed the proposed project and requested that the applicant conduct a Phase 1 Archeological Survey on the entire parcel. The applicant conducted the survey and submitted it to MHPC. After reviewing this information, MHPC stated that the proposed project will have no effect upon any structure or site of historic, architectural, or archaeological significance, as defined by the National Historic Preservation Act of 1966.

The Maine Natural Areas Program database does not contain any records documenting the existence of rare or unique botanical features on the project site and, as discussed in Finding 6, MDIFW did not identify any unusual wildlife habitats located on the project site.

The Department finds that the proposed development will not have an adverse effect on the preservation of any historic sites or unusual natural areas either on or near the development site.

8. BUFFER STRIPS:

The applicant proposes to provide visual buffers as discussed in Finding 5.

With the exception of the one stream crossing outlined in Finding 6, the applicant will protect a 100-foot wide undisturbed buffer along both sides of the stream from future development with a deed restriction.

Meadow stormwater buffers and undisturbed stream buffers are located in Open Space lots and are shown on the set of plans referenced in Finding 1. These buffers will be protected from alteration through the execution of deed restrictions. The applicant proposes to use the deed restriction language contained in Appendix G of Chapter 500 and submitted a draft deed restriction that meets Department requirements. Prior to the start of construction, the applicant must submit a copy of the recorded deed restrictions to the BLWQ.

Prior to the start of construction, the location of stormwater and stream buffers must be permanently marked on the ground. In addition, on Lots 6, 7, 19, 20, 24, 26-29, at the rear of units D1-6, T1, T2, and T8, and along the community center road, parking area, and building, the edge of the wetlands must also be permanently marked on the ground.

Provided buffer areas are protected from future disturbance as discussed above, the Department finds that the applicant has made adequate provision for buffer strips.

9. SOILS:

The applicant submitted a soil survey map and report based on the soils found at the project site. This report was prepared by a certified soils scientist and reviewed by staff from the Division of Environmental Assessment (DEA) of the BLWQ. DEA also reviewed a Blasting Assessment submitted by the applicant.

Based on the soil information discussed above, blasting may be required to construct portions of the access road and to site underground utilities. The applicant submitted construction specifications outlining the responsibilities of the blasting subcontractor in Section 20 of the application. Prior to the start of blasting within 500 feet of non-owned,

off-site structures, the applicant must submit a site-specific blasting plan to the BLWQ for review and approval.

The Department finds that, based on this report and Blasting Plan, and DEA's review, the soils on the project site present no limitations to the proposed project that cannot be overcome through standard engineering practices.

10. STORMWATER MANAGEMENT:

The proposed project includes approximately 10.52 acres of impervious area and 25.58 acres of developed area. It lies within the watershed of Goosefare Brook, an urban impaired stream. The applicant submitted a stormwater management plan based on the basic, general, urban impaired stream, and flooding standards contained in Department Rules, Chapter 500. The proposed stormwater management system consists of catch basins, a subsurface drainage system, two wet ponds, an underdrained soil filter, five underdrained filter ponds, and two meadow buffers.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan (Section 14 of the application) that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMPS, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in response to the comments of the Division of Watershed Management (DWM) of the BLWQ.

DWM recommended that the applicant retain the services of a third party inspector to ensure erosion control measures are installed and adequately maintained to protect the wetlands and stream, and to ensure that the stormwater treatment units are properly constructed. Given the size and nature of the project site, the applicant must retain the services of a third party inspector in accordance with the Special Condition for Third Party Inspection Program, which is attached to and incorporated into this Order. Prior the start of construction, the applicant must conduct a pre-construction meeting to discuss erosion control requirements and protection of wetlands and the stream. This meeting must be attended by the applicant's representative, Department staff, the design engineer, the contractor, and the third-party inspector.

Given the size and nature of the project site, the maximum area that may be exposed, and not temporarily or permanently stabilized, at one time will be limited to no more than 10 acres.

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. This plan was reviewed by, and revised in response to the comments of DWM. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. A homeowners' association will be established that will be responsible for the maintenance of all common facilities including the stormwater management system. The Declaration of Covenants and Restrictions for the association was reviewed and found to meet Department requirements. Prior to the formation of the homeowners' association, the applicant will be responsible for all such maintenance. The applicant may not transfer responsibility for maintenance of the road and for the portion of the stormwater management system that is located in the road right-of-way to the city, until a letter has been submitted by the City of Saco to the BLWQ documenting the City's agreement to maintain both in accordance with the terms of this Order.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on DWM's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500(4)(A).

B. General Standard:

Best Management Practice (BMP): The applicant's stormwater management plan includes BMP treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This mitigation is being achieved by using BMPs that will control runoff from no less than 95.3% of the impervious area and no less than 92% of the developed area.

Meadow stormwater buffers will be located in open space lots and will be protected from alteration through the execution of a deed restriction, as outlined in Finding 8.

The best management practices proposed to meet the Chapter 500, General Standard were reviewed by, and revised in response to comments from DWM staff. DWM recommended that the applicant submit as-built drawings for the underdrained soil filter, underdrained ponds, and the wet ponds. DWM stated that the proposed project is designed in accordance with the Chapter 500 General Standard.

Based on DWM's review of the stormwater management plan, the Department finds that the proposed project is in compliance with the General Standard contained in Chapter 500(4)(B).

C. Flooding Standard:

The applicant is proposing to utilize a stormwater management system based on estimates of pre- and post-development stormwater runoff flows obtained by using Hydrocad, a stormwater modeling software that utilizes the methodologies outlined in Technical Releases #55 and #20, U.S.D.A., Soil Conservation Service and detains stormwater from 24-hour storms of 2-, 10-, and 25-year frequency. The post-development peak flow from the site will not exceed the pre-development peak flow from the site and the peak flow of the receiving water will not be increased as a result of stormwater runoff from the development site.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. In its comments, DWM stated that the proposed system is designed in accordance with the Chapter 500 Flooding Standard.

Based on the system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Flooding Standard for peak flow from the project site, and channel limits and runoff areas.

D. Urban Impaired Stream Standard:

The proposed project is in the watershed of Goosefare Brook, an urban impaired stream. The total area requiring mitigation includes impervious area from rooftops, driveways, and roadways, and developed area from lawns, parks, trails, and roadsides, for which 6.84 mitigation credits are needed. To comply with Chapter 500(4)(D)(2) and achieve the 6.84 mitigation credits, the applicant proposes to treat approximately 11 acres of off-site development, yielding 6.87 mitigation credits. Runoff from seven lots on Woodman Avenue and portions of Interstate-195 will be collected and treated on-site in wet pond WP-2, located in the southern portion of the project site.

Based on the system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Urban Impaired Stream Standard by mitigating project impacts through the treatment of stormwater runoff from off-site sources of impervious area.

The Department further finds that the proposed project will meet the Chapter 500 standards for: (1) management of stormwater discharges; (2) discharge to freshwater wetlands; and (3) threatened or endangered species.

11. GROUNDWATER:

The project site is not located over a mapped sand and gravel aquifer. The proposed project does not propose any withdrawal from, or discharge to, the groundwater.

The Department finds that the proposed project will not have an unreasonable adverse effect on ground water quality.

12. WATER SUPPLY:

When completed, the proposed project is anticipated to use 20,535 gallons of water per day. Water will be supplied by the Biddeford & Saco Water Company. The applicant submitted a letter from the Biddeford & Saco Water Company, dated July 27, 2006, indicating that it will be capable of servicing this project.

The Department finds that the applicant has made adequate provision for securing and maintaining a sufficient and healthful water supply.

13. WASTEWATER DISPOSAL:

When completed, the proposed project is anticipated to discharge 20,535 gallons of wastewater per day to the City of Saco's wastewater treatment facility. The applicant and the City agreed to extend the sewer lines to serve this project. The applicant submitted a letter from the City, dated November 8, 2006, stating that it will accept these flows. This project was reviewed by the Division of Water Quality Management (DWQM) of the BLWQ, which commented that the City of Saco has the capacity to treat these flows and is operating in compliance with the water quality laws of the State of Maine.

Based on DWQM's comments, the Department finds that the applicant has made adequate provision for wastewater disposal at a facility that has the capacity to ensure satisfactory treatment.

14. SOLID WASTE:

When completed, the proposed project is anticipated to generate 333 cubic yards of household solid waste per month. All general solid wastes from the proposed project will be collected by the City of Saco and disposed of at Maine Energy Recovery Company's (MERC) facility in Biddeford, Maine, which is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

The proposed project will generate approximately 14,400 cubic yards of stumps and grubblings. All stumps and grubblings generated will be ground on site and the resulting material utilized for erosion control or mulch in landscaped areas, in compliance with Solid Waste Management Regulations of the State of Maine.

The proposed project will generate approximately 427 cubic yards of construction debris and demolition debris. Recyclable material will be disposed of at Plan-It in Gorham, Riverside Recycling in Portland, or Commercial Recycling Services in Scarborough. Non-recyclable material will be taken to the City of Saco transfer station. Wastes from the municipal transfer station are taken to the MERC facility in Biddeford. All of the facilities listed above are currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

Based on the above information, the Department finds that the applicant has made adequate provision for solid waste disposal.

15. FLOODING:

The developed portion of the proposed project is not located within the 100-year floodway of any river or stream.

The Department finds that the proposed project is unlikely to cause or increase flooding or cause an unreasonable flood hazard to any structure.

16. WATER QUALITY CONSIDERATIONS:

To protect the water quality of the stream and to prevent soil erosion, the applicant proposes to properly install and maintain a silt fence and hay bale barrier prior to project construction these measures until the project site is stabilized. The erosion control plan submitted by the applicant was reviewed by the DWM, as discussed in Finding 10.

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

17. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to alter approximately 135 linear feet of stream and 674 square feet of freshwater wetlands of special significance associated with the stream crossing. The applicant also proposes to alter an additional 7,437 square feet of wet meadow and forested wetlands to construct the Through Road, driveways, and access roads. The roads cross the wetlands at eight locations.

The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require that the applicant meet the following standards:

A. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. Each application for a NRPA permit must provide an analysis of alternatives in order to demonstrate that a

practicable alternative does not exist. The applicant submitted an alternative analysis for the proposed project completed by Sebago Technics and dated December 19, 2006. The stream channel is deeply incised, dropping more than 10 feet in elevation from the surrounding landscape. The applicant examined several sites and methods for crossing the stream, and selected the point where the stream and its related floodplain narrow over a distance of approximately 160 feet. The road and shoulder widths were determined to be the narrowest allowed by the City, while meeting the project need.

B. Minimal Alteration. The amount of freshwater wetlands to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The road was located to cross the wetlands at their narrowest points or along the wetland boundary. In an effort to minimize wetland impacts, the layout of units was altered and road side slopes in the wetland area will be constructed at a 2:1 ratio. Prior to the start of construction on individual lots with wetlands, the location of the wetlands on the individual lots must be permanently marked on the ground and the deed for each lot that contains any portion of a wetland must have attached to it a plot plan for the lot, drawn to scale, that specifies the location of the wetland on the lot.

C. Compensation. In accordance with Chapter 310(6)(d), compensation is not required to achieve the goal of no net loss of wetland functions and values.

The Department finds that the applicant has avoided and minimized stream and wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act:

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment provided a pre-construction meeting is held and a third party inspector is hired, as described in Finding 10.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided the

stream crossing is installed during low flow conditions between July 1 and September 30 of any calendar year, as described in Finding 6.

- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S.A. Section 480-P.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 481 et seq.:

- A. The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards provided final financial evidence is submitted to the BLWQ for review and approval, as outlined in Finding 2.
- B. The applicant has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities provided that designated buffer areas are protected as outlined in Finding 8 and that a site-specific blasting plan is submitted to the BLWQ for review and approval, as described in Finding 9.
- C. The proposed development will be built on soil types which are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil provided a pre-construction meeting is held and a third party inspector is hired, as described in Finding 10.
- D. The proposed development meets the standards for storm water management in Section 420-D and the standard for erosion and sedimentation control in Section 420-C provided that as-built drawings for the underdrained soil filter, underdrained ponds, and the wet ponds are submitted, as described in Finding 10 and deed restrictions for designated buffer areas are recorded, as described in Finding 8.

- E. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.
- F. The applicant has made adequate provision of utilities, including water supplies, sewerage facilities, solid waste disposal, and roadways required for the development and the development will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services.
- G. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

THEREFORE, the Department APPROVES the application of CHAMBERLAIN PROPERTIES, LLC to , SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached.
2. In addition to any specific erosion control measures described in this or previous orders, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant or other responsible party shall, within three months of the expiration of each five-year interval from the date of this Order, submit a report certifying that the items listed in Department Rules, Chapter 500, Appendix B(4) have been completed in accordance with the approved plans.
5. The applicant shall include in all conveyances of subdivision lots deed restrictions making the conveyance subject to all terms and conditions of this Department permit and any applicable municipal approval. These terms and conditions may be incorporated by specific and prominent reference to the permit in the deed. All conveyances required by this approval to contain restrictions shall include in the restrictions the requirement that any subsequent conveyance shall specifically include the same restrictions.
6. The applicant shall give a copy of this permit, including the standard conditions, and a copy of the approved subdivision plan to each lot buyer at least 14 days prior to the date of closing on the sale or lease of the lot. The applicant also shall maintain a file containing signed and dated statements by lot buyers or lessees acknowledging that they have received and read their copy of this permit and the subdivision plan prior to the

- closing on their lot. The file shall also contain a copy of the signed and dated deed or lease containing the restrictive covenants required under this approval. The applicant shall make this file available for inspection upon request by the Department.
7. Prior to the start of construction, the applicant shall submit evidence that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State or evidence of any other form of financial assurance determined by Department Rules, Chapter 373(1), to be adequate to the BLWQ for review and approval.
 8. Prior to the start of construction, the applicant shall retain the services of a third party inspector, approved by the Department in accordance with the Department's Third Party Inspection Program, to inspect the construction of the stormwater management system and to oversee all erosion control measures until permanent stabilization is achieved.
 9. Prior the start of construction, the applicant shall conduct a pre-construction meeting. This meeting shall be attended by the applicant's representative, Department staff, the design engineer, the contractor, and the third-party inspector.
 10. Within 60 days of the date of this Order, the applicant shall record a copy of the deed restrictions related to the Open Space lots, showing the location of the stream and stormwater buffers, at the York County Registry of Deeds and submit a copy of the recorded deed with the restriction and plot plan to the BLWQ.
 11. Prior to the start of construction, the location of stream and stormwater buffers on the open space lots shall be permanently marked on the ground.
 12. The applicant shall submit as-built drawings for the underdrained soil filter, underdrained ponds, and the wet ponds to the BLWQ within 30 days of completion of construction of each treatment unit.
 13. The maximum area that may be exposed, and not temporarily or permanently stabilized, at one time shall be limited to no more than 10 acres.
 14. The stream crossing shall be installed between July 1 and September 30.
 15. Prior to the start of blasting within 500 feet of non-owned, off-site structures, the applicant shall submit a site-specific blasting plan to the BLWQ for review and approval.
 16. Prior to the start of construction on Lots 6, 7, 19, 20, 24, 26-29, at the rear of units D1-6, T1, T2, and T8, and along the community center road, parking area, and building, the edge of the wetlands must also be permanently marked on the ground.

- 17. Prior to the start of construction on Lots 6, 7, 19, 20, 24, 26-29, the deed for each lot that contains any portion of a wetland shall have attached to it a plot plan for the lot, drawn to scale, that specifies the location of the wetlands on the lot.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED AT AUGUSTA, MAINE, THIS 22nd DAY OF May, 2007.

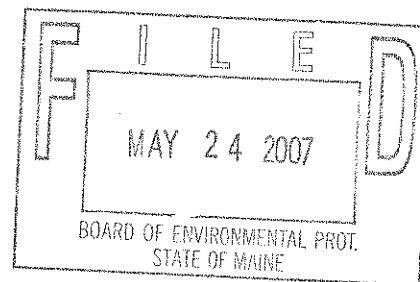
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: 
DAVID P. LITTELL, COMMISSIONER

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application December 27, 2006
Date of application acceptance January 9, 2007

Date filed with Board of Environmental Protection
RLG/ATS #63892 & #63893/L23482AN & L23482BN



SITE LOCATION OF DEVELOPMENT (SITE)
STANDARD CONDITIONS

STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL
IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL.

1. This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents is subject to the review and approval of the Board prior to implementation. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited, without prior approval by the Board of Environmental Protection, and the applicant shall include deed restrictions to this effect.
2. The applicant shall secure and comply with all applicable Federal, State and local licenses, permits, authorizations, conditions, agreements, and orders, prior to or during construction and operation as appropriate.
3. The applicant shall submit all reports and information requested by the Board or Department demonstrating that the applicant has complied or will comply with all conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
4. Advertising relating to matters included in this application shall refer to this approval only if it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
5. Unless otherwise provided in this approval, the applicant shall not sell, lease, assign or otherwise transfer the development or any portion thereof without prior written approval of the Board where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval shall be granted only if the applicant or transferee demonstrates to the Board that the transferee has the technical capacity and financial ability to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant.
6. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the Board for a new approval. The applicant may not begin construction or operation of the development until a new approval is granted. Reapplications for approval shall state the reasons why the development was not begun within two years from the granting of the initial approval and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplications for approval may include information submitted in the initial application by reference.
7. If the approved development is not completed within five years from the date of the granting of approval, the Board may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances which may have occurred during the five-year period.
8. A copy of this approval must be included in or attached to all contract bid specifications for the development.
9. Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the developer a copy of this approval.

(2/81)/Revised November 1, 1979



NATURAL RESOURCE PROTECTION ACT (NRPA) STANDARD CONDITIONS

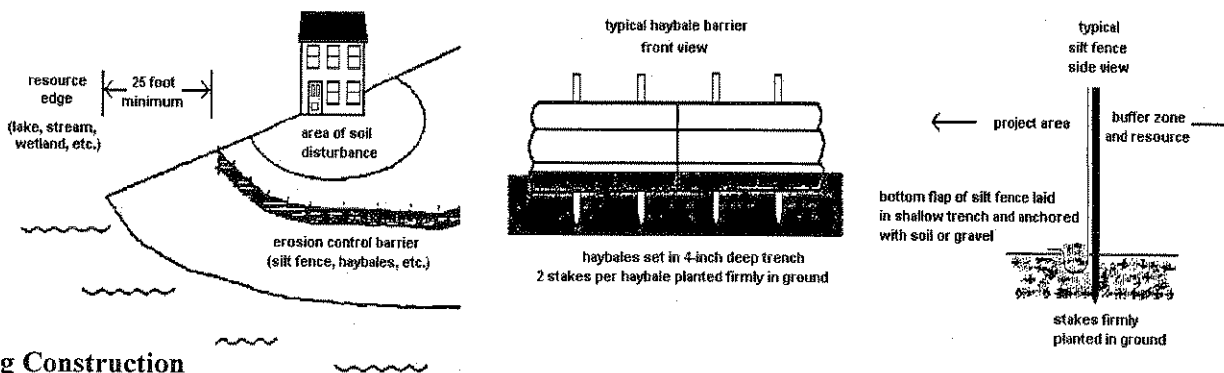
THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCE PROTECTION ACT, TITLE 38, M.R.S.A. SECTION 480-A ET.SEQ. UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. **Approval of Variations From Plans.** The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. **Compliance With All Applicable Laws.** The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. **Erosion Control.** The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. **Compliance With Conditions.** Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. **Initiation of Activity Within Two Years.** If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the applicant will be able to begin the activity within two years form the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- F. **Reexamination After Five Years.** If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- G. **No Construction Equipment Below High Water.** No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- H. **Permit Included In Contract Bids.** A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- I. **Permit Shown To Contractor.** Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

Erosion Control

Before Construction

1. If you have hired a contractor, make sure you have discussed your permit with them. Talk about what measures they plan to take to control erosion. Everybody involved should understand what the resource is and where it is located. Most people could identify the edge of a lake or a river. The edges of wetlands, however, are often not obvious. Your contractor may be the person actually pushing dirt around but you are both responsible for complying with the permit.
2. Call around and find sources for your erosion controls. You will probably need silt fence, hay bales and grass seed or conservation mix. Some good places to check are feed stores, hardware stores, landscapers and contractor supply houses. It is not always easy to find hay or straw during late winter and early spring. It may also be more expensive during those times of year. Plan ahead. Purchase a supply early and keep it under a tarp.
3. Before any soil is disturbed, make sure an erosion control barrier has been installed. The barrier can be either a silt fence, a row of staked hay bales, or both. Use the drawings below as a guide for correct installation and placement. The barrier should be placed as close as possible to the activity.
4. If a contractor is installing the barrier, double check it as a precaution. Erosion control barriers should be installed "on the contour", meaning at the same level along the land slope, whenever possible. This keeps stormwater from flowing to the lowest point of the barrier where it builds up and overflows or destroys it.



During Construction

1. Use lots of hay or straw mulch on disturbed soil. The idea behind mulch is to prevent rain from striking the soil directly. It is the force of raindrops striking the soil that causes a lot of erosion. More than 90% of erosion is prevented by keeping the soil covered.
2. Inspect your erosion control barriers frequently. This is especially important after a rainfall. If there is muddy water leaving the project site, then your erosion controls are not working as intended. In that situation, stop work and figure out what can be done to prevent more soil from getting past the barrier.

After Construction

1. After the project is complete, replant the area. All ground covers are not equal. For instance, a mix of creeping red fescue and Kentucky bluegrass is a good choice for lawns and other high maintenance areas. The same mix would not be a good choice for stabilizing a road shoulder or a cut bank that you don't intend to mow.
2. If you finish your project after September 15, then do not spread grass seed. There is a very good chance that the seed will germinate and be killed by a frost before it has a chance to become established. Instead, mulch the site with a thick layer of hay or straw. In the spring, rake off the mulch and seed the area. Don't forget to mulch again to hold in moisture and prevent the seed from washing away.
3. Keep your erosion control barrier up and maintained until the area is permanently stabilized.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
