



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

MEMORANDUM

TO: The Board of Environmental Protection  
FROM: James R. Beyer, Bureau of Land & Water Quality, Augusta  
RE: Consent Agreement for Gerald Wood & Son, LLC

DATE: October 1, 2009'

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**Statute and Rule Reference:** The *Performance Standards for Excavations*, 38 M.R.S.A. Section 490-C, states, in pertinent part, that a "Notice of Intent to Comply" must first be submitted to the Department of Environmental Protection prior to expanding a gravel pit by more than 5 acres.

**Location:** Machiasport

**Description:** On October 2, 2008, I determined through aerial photography and a field investigation that the gravel pit owned and operated by Gerald Wood & Son, LLC had expanded by approximately 10 acres since 1970. In addition, gravel had been mined within 10 feet of a property line and below the seasonal high groundwater table.

**Environmental Issues:** Gravel pits have the potential to create erosion and sedimentation problems from uncontrolled runoff, ground water pollution from fuel spills and equipment leaks, air pollution from uncontrolled dust sources, noise pollution, and safety concerns from steep slopes. These concerns are addressed by operating a pit in compliance with the Department's Performance Standards for Excavations.

**Department Recommendation:** The Department recommends acceptance of this Agreement stipulating that Gerald Wood & Son, LLC submit a restoration plan to restore the 50 foot buffer along the property line and fill those portions of the pit that have been mined below the seasonal high groundwater table. The plan was submitted by July 30, 2009 and has been approved by Department staff. The Consent Agreement also requires Gerald Wood and Son, LLC to pay a monetary penalty of \$8,050.00, which has been paid.

The penalty is based on the Department's penalty policy reflecting the size and nature of the violations.

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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
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IN THE MATTER OF

GERALD L. WOOD & SON, LLC ) ADMINISTRATIVE CONSENT
MACHIASPORT, WASHINGTON ) AGREEMENT
COUNTY, MAINE )
MINING ) (38 M.R.S.A. §347-A)
EIS #2008-167-L )

This Agreement by and among Gerald L. Wood & Son, LLC, the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

The parties agree as follows:

- 1. Gerald L. Wood & Son, LLC owns a parcel of land located adjacent to Route 92 in Machiasport, Maine as described and recorded in Book 3356 on Page 157 of the Washington County Registry of Deeds.
2. Gerald L. Wood & Son, LLC is a Maine limited liability authorized to conduct business in Maine and which operates a gravel pit on the property described in Paragraph 1 of this Agreement.
3. On October 2, 2008, Department staff determined through the use of aerial photographs and a field investigation that the gravel pit located on the property described in Paragraph 1 of this Agreement had been expanded by approximately 10 acres since 1970.
4. The activities described in Paragraph 3 of this Agreement constitute the following violations:

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**GERALD L. WOOD & SON, LLC**  
**MACHIASPORT, WASHINGTON**  
**COUNTY, MAINE**  
**MINING**  
**EIS #2008-167-L**

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) **ADMINISTRATIVE CONSENT**  
)  
) **AGREEMENT**  
) **(38 M.R.S.A. §347-A)**  
)

- A. By expanding a gravel pit by more than five acres since 1970 without first filing a "Notice of Intent to Comply" as required by the *Performance Standards for Excavations*, Gerald L. Wood & Son, LLC violated the *Performance Standards for Excavations*, 38 M.R.S.A. § 490-C.
- B. By excavating within 50 feet of a property line, Gerald L. Wood & Son, LLC violated the *Performance Standards for Excavations*, 38 M.R.S.A. § 490-D(7).
- C. By excavating within 5 feet of the seasonal high water table, Gerald L. Wood & Son, LLC violated the *Performance Standards for Excavations*, 38 M.R.S.A. § 490-D(3).
5. On October 6, 2008, the Department issued a Notice of Violation to Gerald L. Wood & Son, LLC for the violations described in Paragraphs 3 and 4 of this Agreement in accordance with 38 M.R.S.A. § 347-A(1)(B).
6. On December 2, 2008, Gerald L. Wood & Son, LLC filed a "Notice of Intent to Comply" pursuant to the *Performance Standards for Excavations*, 38 M.R.S.A. §490-C, to mine the property referred to in Paragraph 1 of the Agreement.
7. The Department has regulatory authority over the activities described herein.
8. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection (the "Board") which is part of the Department.
9. This Agreement shall become effective only if approved by the Board and the Office of the Attorney General.
10. To resolve the violations referred to in Paragraphs 3 and 4 of this Agreement, Gerald L. Wood & Son, LLC agrees to:
  - A. No later than July 30, 2009, submit a restoration plan to completely restore the 50-foot natural buffer strip between the working edge of the gravel pit and the affected abutters' property lines. The restoration plan is subject to review and approval by Department staff. The plan must include a specific time schedule for the completion of all phases of the restoration and must consist of planting a mixture of deciduous and evergreen trees. Implement the approved plan in accordance with the schedule contained therein.
  - B. Immediately cease any further gravel mining below the water table or within 5 feet of the water table and completely backfill all areas where the water table is exposed such that 5 feet of separation exists between the pit floor and the seasonal high water table.

GERALD L. WOOD & SON, LLC  
MACHIASPORT, WASHINGTON  
COUNTY, MAINE  
MINING  
EIS #2008-167-L

3  
) ADMINISTRATIVE CONSENT  
)  
) AGREEMENT  
) (38 M.R.S.A. §347-A)  
)

C. Pay the Treasurer, State of Maine, upon signing this Agreement, the sum of eight thousand dollars (\$8,050.00) as a civil monetary penalty.

11. The Department and the Maine Office of the Attorney General grant a release of their causes of action against Gerald L. Wood & Son, LLC for the specific violations listed in Paragraphs 3 and 4 of this Agreement on the express condition that all actions listed in Paragraph 10 of this Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until this condition is satisfied.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of three (3) pages.

GERALD L. WOOD & SON, LLC

BY: Judy S Wood DATE: 8.20.09  
JUDY'S WOOD TTEE WOOD LIVING TRUST, MEMBER  
JUDY WOOD, TRUSTEE OF JUDY'S WOOD TTEE WOOD LIVING TRUST

BY: Gerald L Wood DATE: 8.20.09  
GERALD L. WOOD TTEE WOOD LIVING TRUST, MEMBER  
GERALD L. WOOD, TRUSTEE OF GERALD L. WOOD TTEE WOOD LIVING TRUST

BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
SUSAN M. LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
MARGARET A. BENSINGER, ASSISTANT ATTORNEY GENERAL