

salvage value, is estimated to be \$828,215. A detailed breakdown of decommissioning costs is in Appendix 29-1 of the application.

- 4.) Financial assurance. The applicant will ensure that financial assurance for decommissioning costs will be fully established at least five years prior to expected end of useful economic life of the project as follows. On or prior to December 31 of each calendar year for years 11-14 of the project's operation, 20% of the total estimated decommissioning cost will be reserved in the form of cash or a letter of credit to the Decommissioning Fund. On or prior to December 31 of year 15 of the project's operation, the estimated cost of decommissioning, minus salvage value, will be reassessed and an amount equal to the balance of such updated estimated cost of decommissioning, less salvage value and less the amounts reserved in years 11-14, will be reserved for decommissioning and site restoration. The financial assurance may be in the form of a performance bond, surety bond, letter of credit, parental guarantee, or other acceptable form of financial assurance, which must be reviewed and approved by the Department prior to the start of operation of the project. The applicant states that financial assurance will be kept in place until such time as the decommissioning work has been completed, provided that to the extent available as liquid funds, the financial assurance may be used to offset the costs of the decommissioning. The applicant shall structure the financial assurance such that the Department will have third-party authority to access and utilize the decommissioning funds for the specific purpose of accomplishing decommissioning and site restoration as described in the application. The trigger for the Department's third party rights shall be the dissolution of the project's owner or if the project ceases to generate electricity for a continuous period of twelve months.

Interested parties stated that the applicant should be required to fully fund a bankruptcy remote fund adequate to fully decommission the project without reducing the fund for any salvage value and that the fund shall be fully funded upon the commencement of operation. Further, interested parties state that the DEP should solicit its own independent estimate of the cost of decommissioning this project

The Department considered the concerns raised by interested parties. The applicant provided an estimate and provisions for the total cost of decommissioning less salvage value of the equipment. The Department finds that the applicant has made adequate provisions for demonstrating a decommissioning plan and a means to execute the plan provided that the final financial assurance instrument is submitted to the Department for review and approval prior to the start of construction.

25. TANGIBLE BENEFITS:

The applicant states that the Record Hill Wind Project will provide numerous tangible benefits to the State of Maine and to the host community of Roxbury. The applicant contends that, at the state level, the proposed project will offer a renewable energy source that will help stabilize and reduce electricity rates. The proposed project will help the state to meet its commitments under the Regional Greenhouse Gas Initiative (RGGI) and

help retail power suppliers meet their commitments under the renewable Portfolio Standard. The applicant contends that the host communities will benefit through energy assistance, property tax benefits, and employment opportunities.

1.) Energy Assistance. The applicant agrees to pay the first 500 kilowatt hours of the electricity generation charges of every current residence in the Town of Roxbury for each month over the next 20 years or the life of the proposed project, whichever comes first. The applicant's purpose of this offer is to form a direct link between the existence of the proposed project and each resident's positive experience of living in the town. CMP, which holds the exclusive franchise for delivering electricity in Roxbury, has agreed to cooperate with the proposed project to provide this service with minimal extra billing or administrative procedures. Assuming that there were about 220 year-round residences and about 180 seasonal residences in Roxbury at the time of the offer (September 1, 2008), and that the cost of the electricity generation charge on CMP bills was about \$0.10 per kilowatt hour, the applicant estimates that this tangible benefit is worth about \$600 annually to each year-round residence and about \$200,000 annually to all residents collectively.

2.) Property Tax Benefits. The proposed project is expected to be assessed at about \$100 million. Because Roxbury's total assessed property value at this current time is approximately \$33 million, the proposed project is expected to pay 75 percent of all taxes in the town and result in a 66 percent reduction in property taxes. This reduction is anticipated to occur even after factoring in adjustments to county taxes, state education subsidy, and municipal revenue sharing that will occur as a result of the new assessment. Current estimates of property taxes on the Project are over \$700,000 per year. The applicant provided multiple examples of property tax savings for a variety assessed residences. One example includes the following: A residence in Roxbury that is assessed at \$120,000 today pays \$2,305 in property tax. In a typical year after the proposed project begins operation, the tax is anticipated to drop to \$775, a savings to the property owner of \$1,530 per year.

3.) Employment Opportunities. The applicant contends that the proposed project will have a significant impact on employment in the state. At this time, all consultants and contractors currently working on the proposed project are based in Maine and employ Maine residents. The applicant stated that during construction, there will be job opportunities for activities such as tree clearing and excavation. In addition, local businesses such as motels, restaurants, gas stations, and pharmacies will see increases in activity. After construction is finished, the operation of the project will require employment of three to five full-time position equivalents. Jobs such as those involved in road maintenance and plowing will also be available. The proposed project will hire locally whenever possible. The value of the employment contracts between the applicant and Maine-based businesses are likely to exceed \$28 million and include over 75% of the construction, engineering, and consulting costs of the proposed project. The applicant submitted a plan, entitled "Tangible Benefits: Project Development Contractors", which denotes all of the companies and their location of operations in the State that are currently contracted by the applicant to provide assistance with the proposed project.

Interested parties stated that the energy assistance offer is contrary to the intent of the wind law and Maine laws calling for reduced fossil fuel use, energy efficiency and conservation. Interested parties contend that by providing free electricity, the applicant is encouraging more consumption, rather than less. This will increase demand for electricity, resulting in more fossil fuel consumption and upward pressure on the price.

The Department reviewed the concerns expressed by interested parties. After consideration of all of the benefits proposed by the applicant and based upon information in the record, the Department finds that the applicant has demonstrated that the proposed project will provide significant tangible benefits to the host community and surrounding area pursuant to 35-A § 3454.

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.
- 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 that the applicant submits a finalized post-construction avian, bat and raptor (including eagles) monitoring protocol to the Department for review and approval prior to the start of operation of the Record Hill Wind Project, as described in Finding 7 and all in-stream work is conducted between July 15 and September 30.
- 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. 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 that prior to the start of construction, the applicant submits evidence for review and approval 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 another form of financial assurance determined by the Department pursuant to Chapter 373(1), as described in Finding #3.
- 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 the applicant implements the sound compliance assessment plan and submits to the Department for review and approval, if necessary, a revised operation protocol that demonstrates that the project will be in compliance at all the protected locations surrounding the development as described in Finding 5.
- 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 that the applicant submits a pre-blast survey to the Department for review and approval, prior to any blasting occurring on the project site, and if a rock crusher is required to be utilized on site, the applicant must insure that the crusher is licensed by the Department's Bureau of Air Quality and is being operated in accordance with that license.
- 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 the applicant adhere to the required protocol for inspections of the ditch turnouts, level lip spreaders, and grassed underdrained soil filters as outlined in Finding 11, and provided that the applicant retain the services of a third party inspector in accordance with the Special Condition for Third Party Inspection Program.
- 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 provided that that the applicant submit a revised SPCC plan for operation of the facility to the

Department for review and approval prior to the start of construction, provided that the applicant adhere to 06-096 Chapter 587 (6) of the Department's rules, In-stream Flows and Lake and Pond Water Levels, during construction when withdrawing water from a local lake source for the purpose of dust abatement, provided that the application submit a site plan denoting the final location of the water supply well to the Department within 7 days of its installation, and provided that mulch depth of processed brush is no more than 2 to 4 inches and the mulch is placed within 30 days of completing the brush process.

- 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.
- H. The activity will not unreasonably cause shadow flicker effects to occur over adjacent properties out to a distance of 1,000 feet or greater from the nearest turbine location.
- I. The activity will not present an unreasonable safety hazard to adjacent properties or adjacent property uses.
- J. The activity will provide significant tangible benefits to the host community and surrounding area.

THEREFORE, the Department APPROVES the application of RECORD HILL WIND, LLC to construct 55-megawatt wind energy development project, also known as the Record Hill Wind Project, in the Town of Roxbury, Maine, 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. Prior to the start of construction, the applicant shall submit final evidence for review and approval that it has been granted a line of credit or loan by a financial institution authorized to do business in this State or evidence of another form of financial assistance determined by the Department to be adequate pursuant to Chapter 373(1) of the Department's Rules.

5. The applicant shall implement the sound level compliance assessment plan outlined in Finding 5 and submit the results to the Department for review and approval, within one calendar year of the start of operation of the Record Hill Wind Project.
6. If sound compliance measurements completed in accordance with Special Condition #5 above determine that the Record Hill Wind Project is not in compliance at all protected locations, within 60 days of a determination of non-compliance by the Department, the applicant shall submit a revised operational protocol that demonstrates that the project will be in compliance at all protected locations.
7. Prior to the start of operation of the Record Hill Wind Project, the applicant shall submit a finalized avian, bat and raptor monitoring protocol developed in consultation with MDIFW, to the Department for review and approval. The monitoring plan shall include, among other things, a thorough survey of Bald Eagle activity associated with Ellis Pond and the ridgeline habitats along the Record Hill Wind Project.
8. Prior to the start of operation of the Record Hill Wind Project, the applicant shall record a deed restriction for all stormwater treatment buffers with the Registry of Deeds for the subject parcel. The deed restriction shall have attached to it a plot plan for the parcel, drawn to scale, that specifies the location of all stormwater buffers on the parcel. The applicant shall submit a copy of the recorded deed restriction including the plot plan(s) to the Department within 90 days of its recording.
9. Prior to the start of construction, the applicant shall temporarily mark or flag the limits of all areas proposed to be cleared on the ground.
10. Within 60 days of start of operation of the Record Hill Wind Project, the applicant shall permanently mark on the ground all buffer areas that are designated to provide stormwater treatment pursuant to the Chapter 500 Stormwater Management Rules.
11. Prior to any blasting on the project site, the applicant shall submit a pre-blast survey to the Department for review and approval. All blasting must be conducted in compliance with the provisions set forth by 38 M.R.S.A. § 490-Z (14), and the applicant must follow all applicable limits on ground vibration at inhabitable structures not owned or controlled by the applicant in conformance with the U.S Bureau of Mines Report of Investigations 8507 and a revised blasting plan incorporating this change must be submitted to the Department prior to construction.
12. If a rock crusher is required to be utilized on site, the applicant must insure that the crusher is licensed by the Department's Bureau of Air Quality and is being operated in accordance with that license.
13. Prior to the start of construction, the applicant shall conduct a pre-construction meeting to discuss the construction schedule and the erosion and sediment control plan with the appropriate parties. This meeting shall be attended by the applicant's representative, Department staff, the design engineer, the contractor, and the third-party inspector.

14. The applicant shall retain the services of a third party inspector in accordance with the Special Condition for Third Party Inspection Program as described in Finding 11.
15. The applicant shall adhere to the required protocol for inspections of the ditch turnouts, level lip spreaders, and grassed underdrained soil filters as outlined in Finding 11.
16. Prior to the start of construction, the applicant shall submit a final SPCC plan for operation of the facility to the Department for review and approval. The applicant shall adhere to the procedures outlined in Finding 12.
17. During construction, the applicant shall adhere to 06-096 Chapter 587 (6) of the Department's Rules, In-stream Flows and Lake and Pond Water Levels, when withdrawing water from the local lake source for the purpose of dust abatement.
18. The applicant shall submit a site plan denoting the final location of the water supply well to the Department within 7 days of its installation.
19. The applicant shall conduct all in-stream work between July 15 and September 30 of any calendar year.
20. The applicant shall submit a copy of an executed public safety agreement to the Department within 60 days of its recording as described in Finding #23.
21. Prior to the start of construction, the applicant shall submit to the Department for review and approval, evidence that the final decommissioning financial assurance mechanism has been established. The financial assurance instrument shall be designed to allow the Department access to the decommissioning funds, if necessary, to implement the decommissioning process.

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.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

L-24441-24-A-N/L-24441-TF-B-N

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Department of Environmental Protection
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.

DEPLW 0429



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.

Revised (4/92)

DEP LW0428

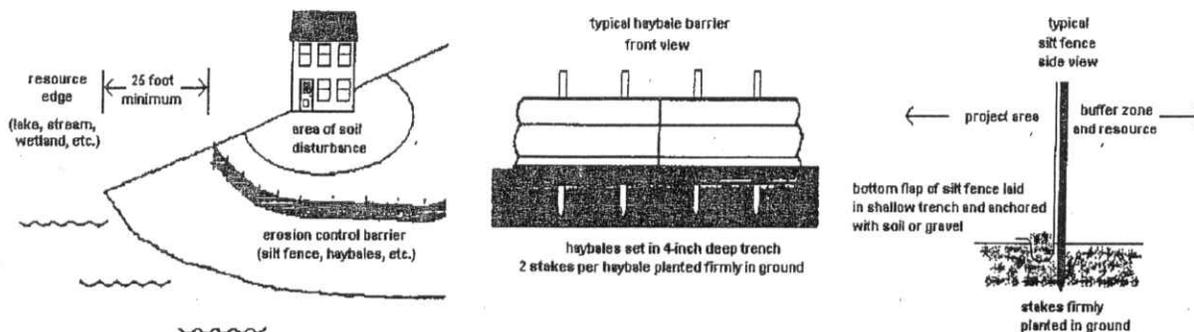


STATE OF MAINE
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 17 STATE HOUSE STATION, AUGUSTA, MAINE 04333

Erosion Control for Homeowners

Before Construction

1. If you have hired a contractor, make sure you discuss your permit-by-rule 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 can identify the edge of a lake or river. However, the edges of wetlands are often not so obvious. Your contractor may be the person actually pushing dirt around, but you are both responsible for complying with the permit-by-rule.
2. Call around to find where erosion control materials are available. Chances are your contractor has these materials already on hand. You probably will need silt fence, hay bales, wooden stakes, grass seed (or conservation mix), and perhaps filter fabric. Places to check for these items include farm & feed supply stores, garden & lawn suppliers, and landscaping companies. It is not always easy to find hay or straw during late winter and early spring. It also may be more expensive during those times of year. Plan ahead -- buy 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 soil-disturbance activity.
4. If a contractor is installing the erosion control barrier, double check it as a precaution. Erosion control barriers should be installed "on the contour", meaning at the same level or elevation across the land slope, whenever possible. This keeps stormwater from flowing to the lowest point along the barrier where it can build up and overflow or destroy the barrier.



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 hitting the bare ground that makes the soil begin to move downslope with the runoff water, and cause 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. You or your contractor then need to figure out what can be done to prevent more soil from getting past the barrier.
3. Keep your erosion control barrier up and maintained until you get a good and healthy growth of grass and the area is permanently stabilized.

STORMWATER MANAGEMENT LAW 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

Standard conditions of approval. Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions pursuant to Chapter 500 Stormwater Management Law.

- (1) Approval of variations from plans. The granting of 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 these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S.A. § 420-D(8) and is subject to penalties under 38 M.R.S.A. § 349.
- (2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- (3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
- (4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department 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 may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.
- (5) Initiation of project within two years. 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 department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference.
- (6) Reexamination after five years. If the project is not completed within five years from the date of the granting of approval, the department may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances or requirements which may have occurred during the five-year period.

- (7) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the conditions by the developer, and the owner and each contractor and subcontractor has certified, on a form provided by the department, that the approval and conditions have been received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.
- (8) Maintenance. The components of the stormwater management system must be adequately maintained to ensure that the system operates as designed, and as approved by the department.
- (9) Recertification requirement. Within three months of the expiration of each five-year interval from the date of issuance of the permit, the permittee shall certify the following to the department.
 - (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
 - (b) All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the facilities.
 - (c) The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained

November 16, 2005

Special Condition
for
Third Party Inspection Program

THIRD-PARTY INSPECTION PROGRAM

1.0 THE PURPOSE OF THE THIRD-PARTY INSPECTION

As a condition of this permit, the Maine Department of Environmental Protection (MDEP) requires the permit applicant to retain the services of a third-party inspector to monitor compliance with MDEP permit conditions during construction. The objectives of this condition are as follows:

- 1) to ensure that all construction and stabilization activities comply with the permit conditions and the MDEP-approved drawings and specifications,
- 2) to ensure that field decisions regarding erosion control implementation, stormwater system installation, and natural resource protection are based on sound engineering and environmental considerations, and
- 3) to ensure communication between the contractor and MDEP regarding any changes to the development's erosion control plan, stormwater management plan, or final stabilization plan.

This document establishes the inspection program and outlines the responsibilities of the permit applicant, the MDEP, and the inspector.

2.0 SELECTING THE INSPECTOR

At least 30 days prior to starting any construction activity on the site, the applicant will submit the names of at least two inspector candidates to the MDEP. Each candidate must meet the minimum qualifications listed under section 3.0. The candidates may not be employees, partners, or contracted consultants involved with the permitting of the project or otherwise employed by the same company or agency except that the MDEP may accept subcontractors who worked for the project's primary consultant on some aspect of the project such as, but not limited to, completing wetland delineations, identifying significant wildlife habitats, or conducting geotechnical investigations, but who were not directly employed by the applicant, as Third Party inspectors on a case by case basis. The MDEP will have 15 days from receiving the names to select one of the candidates as the inspector or to reject both candidates. If the MDEP rejects both candidates, then the MDEP shall state the particular reasons for the rejections. In this case, the applicant may either dispute the rejection to the Director of the Bureau of Land and Water Quality or start the selection process over by nominating two, new candidates.

3.0 THE INSPECTOR'S QUALIFICATIONS

Each inspector candidate nominated by the applicant shall have the following minimum qualifications:

- 1) a degree in an environmental science or civil engineering, or other demonstrated expertise,
- 2) a practical knowledge of erosion control practices and stormwater hydrology,
- 3) experience in management or supervision on large construction projects,
- 4) the ability to understand and articulate permit conditions to contractors concerning erosion control or stormwater management,
- 5) the ability to clearly document activities being inspected,
- 6) appropriate facilities and, if necessary, support staff to carry out the duties and responsibilities set forth in section 6.0 in a timely manner, and
- 7) no ownership or financial interest in the development other than that created by being retained as the third-

party inspector.

4.0 INITIATING THE INSPECTOR'S SERVICES

The applicant will not formally and finally engage for service any inspector under this permit condition prior to MDEP approval or waiver by omission under section 2.0. No clearing, grubbing, grading, filling, stockpiling, or other construction activity will take place on the development site until the applicant retains the MDEP-approved inspector for service.

5.0 TERMINATING THE INSPECTOR'S SERVICES

The applicant will not terminate the services of the MDEP-approved inspector at any time between commencing construction and completing final site stabilization without first getting written approval to do so from the MDEP.

6.0 THE INSPECTOR'S DUTIES AND RESPONSIBILITIES

The inspector's work shall consist of the duties and responsibilities outlined below.

- 1) Prior to construction, the inspector will become thoroughly familiar with the terms and conditions of the state-issued site permit, natural resources protection permit, or both.
- 2) Prior to construction, the inspector will become thoroughly familiar with the proposed construction schedule, including the timing for installing and removing erosion controls, the timing for constructing and stabilizing any basins or ponds, and the deadlines for completing stabilization of disturbed soils.
- 3) Prior to construction, the inspector will become thoroughly familiar with the project plans and specifications, including those for building detention basins, those for installing the erosion control measures to be used on the site, and those for temporarily or permanently stabilizing disturbed soils in a timely manner.
- 4) During construction, the inspector will monitor the contractor's installation and maintenance of the erosion control measures called for in the state permit(s) and any additional measures the inspector believes are necessary to prevent sediment discharge to off-site properties or natural resources. This direction will be based on the approved erosion control plan, field conditions at the time of construction, and the natural resources potentially impacted by construction activities.
- 5) During construction, the inspector will monitor the contractor's construction of the stormwater system, including the construction and stabilization of ditches, culverts, detention basins, water quality treatment measures, and storm sewers.
- 6) During construction, the inspector will monitor the contractor's installation of any stream or wetland crossings.
- 7) During construction, the inspector will monitor the contractor's final stabilization of the project site.
- 8) During construction, the inspector will keep logs recording any rain storms at the site, the contractor's activities on the site, discussions with the contractor(s), and possible violations of the permit conditions.
- 9) During construction, the inspector will inspect the project site at least once a week and before and after any significant rain event. The inspector will photograph all protected natural resources both before and after construction and will photograph all areas under construction. All photographs will be identified with, at a minimum the date the photo was taken, the location and the name of the individual taking the photograph.
Note: the frequency of these inspections as contained in this condition may be varied to best address particular project needs.
- 10) During construction, the inspector will prepare and submit weekly (or other frequency) inspection reports to

the MDEP.

- 11) During construction, the inspector will notify the designated person at the MDEP immediately of any sediment-laden discharges to a protected natural resource or other significant issues such as the improper construction of a stormwater control structure or the use of construction plans not approved by the MDEP.

7.0 INSPECTION REPORTS

The inspector will submit weekly written reports (*or at another designated frequency*), including photographs of areas that are under construction, on a form provided by the Department to the designated person at the MDEP. Each report will be due at the MDEP by the Friday (*or other designated day*) following the inspection week (Monday through Sunday).

The weekly report will summarize construction activities and events on the site for the previous week as outlined below.

- 1) The report will state the name of the development, its permit number(s), and the start and end dates for the inspection week (Monday through Sunday).
- 2) The report will state the date(s) and time(s) when the inspector was on the site making inspections.
- 3) The report will state the date(s) and approximate duration(s) of any rainfall events on the site for the week.
- 4) The report will identify and describe any erosion problems that resulted in sediment leaving the property or sediment being discharged into a wetland, brook, stream, river, lake, or public storm sewer system. The report will describe the contractor's actions to repair any damage to other properties or natural resources, actions to eliminate the erosion source, and actions to prevent future sediment discharges from the area.
- 5) The report will list the buildings, roads, parking lots, detention basins, stream crossings or other features open to construction for the week, including those features or areas actively worked and those left unworked (dormant).
- 6) For each area open to construction, the report will list the date of initial soil disturbance for the area.
- 7) For each area open to construction, the report will note which areas were actively worked that week and which were left dormant for the week. For those areas actively worked, the report will briefly state the work performed in the area that week and the progress toward final stabilization of the area -- e.g. "grubbing in progress", "grubbing complete", "rough grading in progress", "rough grading complete", "finish grading in progress", "finish grading complete", "permanent seeding completed", "area fully stable and temporary erosion controls removed", etc.
- 8) For each area open to construction, the report will list the erosion and sedimentation control measures installed, maintained, or removed during the week.
- 9) For each erosion control measure in-place, the report will note the condition of the measure and any maintenance performed to bring it to standard.

Third Party Inspection Form

This report is prepared by a Third Party Inspector to meet the requirements of the Third Party Inspector Condition attached as a Special Condition to the Department Order that was issued for the project identified below. The information in this report/form is not intended to serve as a determination of whether the project is in compliance with the Department permit or other applicable Department laws and rules. Only Department staff may make that determination.

TO: <i>PM, Maine DEP (@maine.gov)</i>	FROM:
PROJECT NAME/ LOCATION:	DEP #:
DATE OF INSPECTION:	DATE OF REPORT:
WEATHER:	CONDITIONS:

SITE CHARACTERISTICS:

# ACRES OPEN:	# ACRES ACTIVE:	# ACRES INACTIVE:
LOCATION OF OPEN LAND:	LOCATION OF ACTIVE LAND:	LOCATION OF INACTIVE LAND:
OPEN SINCE:	OPEN SINCE:	OPEN SINCE:

PROGRESS OF WORK:

INSPECTION OF:	Satisfactory	Minor Deviation (corrective action required)	Unsatisfactory (include photos)
STORMWATER CONTROL (VEGETATIVE & STRUCTURAL BMP'S)			
EROSION & SEDIMENTATION CONTROL (TEMPORARY & PERMANENT BMP'S)			
OTHER: (PERMIT CONDITIONS, ENGINEERING DESIGN, ETC.)			

COMMENTS/CORRECTIVE ACTIONS TAKEN (attach additional sheets as necessary):

Photos (must be labeled with date, photographer and location):

Cc:		
<i>Original and all copies were sent by email only.</i>		