INVOICE

Alex Mas
The Nature Conservancy
14 Main Street, Suite 401
Brunswick ME 04011

E-mail: amas@tnc.org

Invoice # 41

Date: August 4, 2010

Bill To:

Environmental Protection
BLWQ
17 State House Station
Augusta ME 04333-0017

Vendor Code:

VC1000067626

	Description	
	In Lieu Fee for Wetland Compensation	**$180,679.51**
	DEP Number:	
	Internal transfer-invoice	
	USMC Armed Forces Reserve Center #L-2011-87-M-A **Check number 8522-17609135**	
	Total	**$180,679.51**

IN-LIEU-FEE (ILF) PROJECT DATA WORKSHEET

DEP Invoice # 41

[Note: Will be filled in by ILF Administrator in Augusta]

Project name: USMC Reserve Center and Maine Guard – Armed Forces Reserve Center

Applicant (s): Department of the Navy and the Department of the Army

DEP/Corps permit #: DEP #L-20116-87-M-A/L-20116-TG-N-N

[Note: Please attach a PDF copy of the permit]

DEP ATS #: 71461 & 71462

ILF Contribution Amount $180,679.51

[Note: Please attach a PDF copy of the check]

Project address: Brunswick

[Note; Please attach a PDF map of project location]

Biophysical region: Midcoast Region

Size of total impact subject to compensation: 44,393 square feet

Resources Impacted: FW

[The resource table on page 2 MUST be filled in with all resource types impacted, amounts and functions.]

Project manager: Robert Green

Note: The ILF Project Data Worksheet must be filled out by the PM within 3 days of receiving a contribution to the "Natural Resource Mitigation Fund" and faxed along with a copy of the check to James Cassida in Augusta at 287-7826. The distribution of ILF contributions is time sensitive.

The PM should also double check to make sure that the check has been routed to Augusta with the correct account number reference. The account # for the ILF program is 014.06A.1776.14

Resource(s) Impacted:

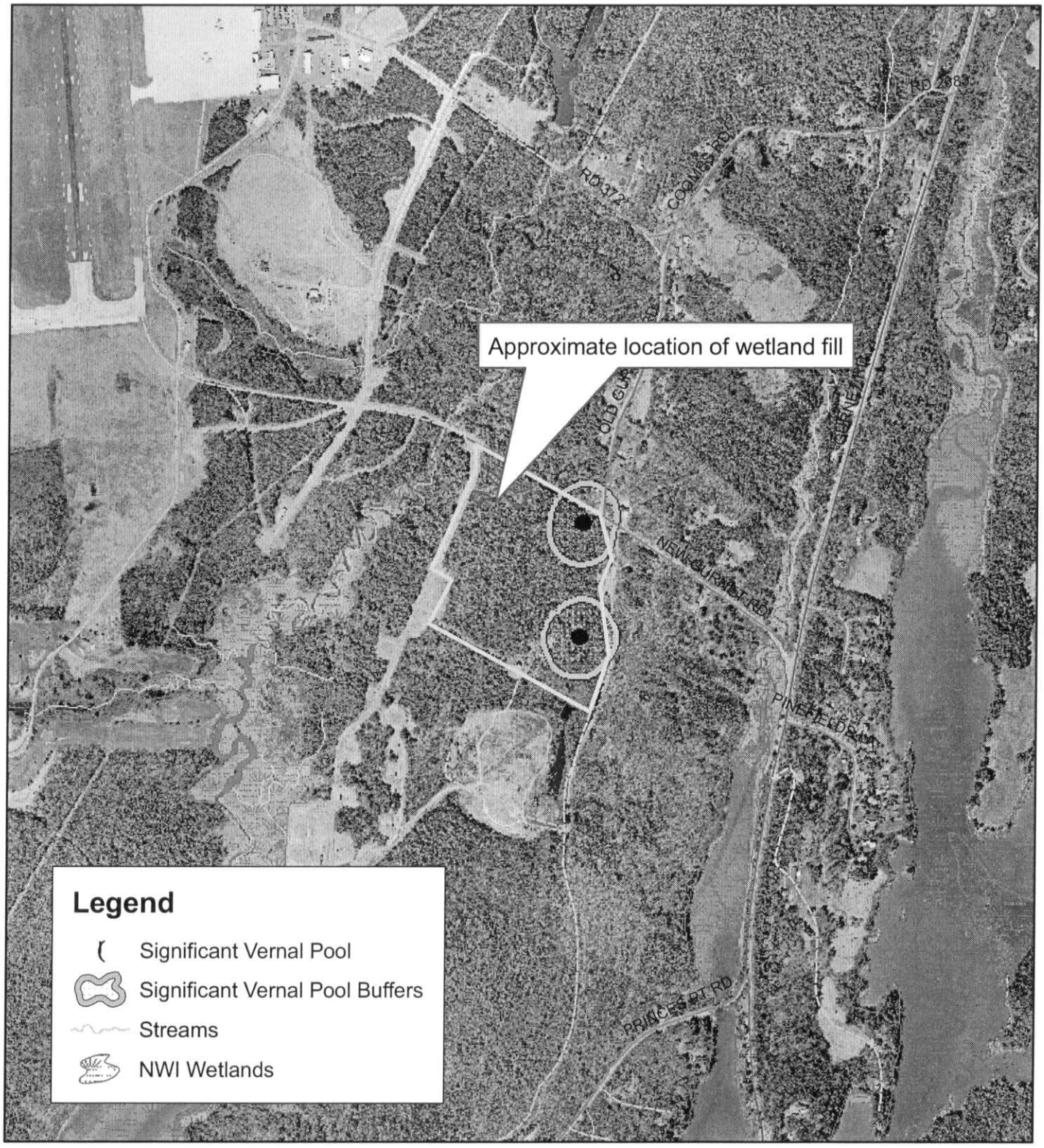
Resource Type: (Wetlands by NWI Type (PFO, PSS, M1, M2, E1, E2, etc), significant vernal pool (SVP), shorebird feeding & staging habitat (Shorebird), inland waterfowl & wading bird habitat (IWWH), tidal waterfowl & wading habitat (TWWH), and river, stream, or brook (RSB).

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alterations(FF); fish & shellfish habitat(FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); wildlife habitat (WH); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ).

Types of impacts: may include filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), others.

Resource type (list all that apply)	**Functions (for wetland impacts)** (list all that apply, by resource type)	**Type of Impact** (by resource type)	**Sq Feet Impacted** (by resource type)
PFO4	GWR, FF, STR, NR, SS, and WH	fill	44,393
		Total square feet impacted	44,393

USMC Reserve Center
Maine Guard Armed Forces Reserve Center, Brunswick



1,500 750 0 1,500 Feet

Map Notes:
- Background hydrologic, topographic and political features are from MEGIS data layers with an accuracy of +/- 40 feet.
- All spatial data is projected to NAD 1983 UTM Zone 19.
- All spatial data is specific to Maine DEP Bureau of Land and Water Quality. Data is maintained by the Maine DEP GIS Unit.
- This map is to be used for reference purposes only and does not represent authoritative locations of displayed features.

Map Prepared By: Robert Green
Maine DEP, BLWQ,
Division of Land Resource Regulation
April 14, 2010

STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

June, 2010

Department of the Navy
C/o W. David Noble, Commander Navy Region Mid-Atlantic
Code N-45
Regional Environmental Group
1510 Gilbert Street
Norfolk, VA 23511

Department of the Army
Attn: Donald Lagace, COL, Maine Army National Guard
Camp Keyes
194 Winthrop Street
Augusta, ME 04330

RE: Site Location of Development Act Application, Brunswick, DEP #L-20116-87-M-A

Dear Sirs:

Please find enclosed a signed copy of your Department of Environmental Protection land use permit. You will note that the permit includes a description of your project, findings of fact that relate to the approval criteria the Department used in evaluating your project, and conditions that are based on those findings and the particulars of your project. Please take several moments to read your permit carefully, paying particular attention to the conditions of the approval. The Department reviews every application thoroughly and strives to formulate reasonable conditions of approval within the context of the Department's environmental laws. You will also find attached some materials that describe the Department's appeal procedures for your information.

If you have any questions about the permit or thoughts on how the Department processed this application please get in touch with me directly. I can be reached at 207- 822-6300 or at robert.green@maine.gov

Yours sincerely,

Robert L. Green, Jr.

Robert L. Green, Jr., Project Manager
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST

BANGOR
106 HOGAN ROAD
BANGOR ME 04401
(207-941-4570 FAX 207-941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-3143

WEB SITE: WWW.MAINE.GOV/DEP

STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

DEPARTMENT ORDER

IN THE MATTER OF

DEPARTMENT OF THE NAVY	) SITE LOCATION OF DEVELOPMENT ACT
DEPARTMENT OF THE ARMY	) NATURAL RESOURCES PROTECTION ACT
Brunswick, Cumberland County	) FRESHWATER WETLAND ALTERATION
US MARINE CORPS RESERVE CENTER	) WATER QUALITY CERTIFICATION
MAINE NATIONAL GUARD -	)
ARMED FORCES RESERVE CENTER	)
L-20116-87-M-A (approval)	)
L-20116-TG-N-N	) 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 the DEPARTMENT OF THE NAVY and the DEPARTMENT OF THE ARMY with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: The Brunswick Naval Air Station (the Base) has been in operation since 1942. The Department has issued several permits for various discreet projects within the Base. In Department Order #L-18093-4E-A-N, dated June 5, 1992, the Department approved a dam rebuild on an unnamed stream. In Department Order #L-20116-NL-A-N, dated December 20, 1999, the Department approved the stormwater management plan for the construction of a new family housing complex and in Department Order #L-20116-87-B-N, dated September 28, 2000, the Department approved the construction of new Bachelor's Enlisted Quarters under the Site Location of Development Act (Site Law). Subsequent Department Orders have approved numerous new projects and modifications under the Site Law.

B. Summary: The applicants propose to construct two reserve centers on an approximately 51-acre parcel of land located within the limits of the Base. The Base is slated for closure in 2011, following the federal government's Base Realignment and Closure process. The parcel of land on which the two reserve centers are proposed was transferred from the Department of the Navy to the Department of the Army and will be managed by the Maine Army National Guard. The reserve centers will be constructed in two phases.

In Phase I, the Department of the Navy proposes to construct a new Marine Corps Reserve Center (MCRC). The proposed MCRC will replace the existing facility located

on the Base. The new facility will consist of an 18,623 square foot building with concrete walkways and parking for approximately 190 reservists and 11 full-time staff. The project is shown on a set of plans, the first of which is entitled "United States Marine Corps Reserve Center - Topsham," prepared by Whitman, Requardt, & Associates, LLP, and NAVFAC, and dated March 10, 2009, with a last revision date of April 27, 2010.

In Phase II, the Department of the Army proposes to construct a new Armed Forces Reserve Center (AFRC) to replace the existing facilities located at the Stevens Avenue Armory in Portland. The new facility will consist of an approximately two-story building with a 37,000 square foot footprint and concrete walkways and parking for approximately 200 reservists and 25 full-time staff. Due to funding constraints for the AFRC, a conceptual site layout was submitted. The applicants submitted a conceptual stormwater management plan for treating stormwater runoff generated by the AFRC to demonstrate that the AFRC can be developed to meet the Department's stormwater treatment standards.

The applicants are also seeking approval under the Natural Resources Protection Act (NRPA) to alter 44,393 square feet of freshwater wetlands to construct the two reserve centers.

The applicants conducted vernal pool surveys in the spring of 2007 and identified two vernal pools on the project site. Both vernal pools were determined to be significant vernal pools, as defined in the NRPA Rules, Chapter 335, Significant Wildlife Habitat. Construction of the reserve centers will require clearing within 500 feet of the edges of the vernal pools and a 30-foot wide utility corridor is proposed to run between the two vernal pools. Impacts to significant vernal pool habitat are discussed further in Finding 6.

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

2. FINANCIAL CAPACITY:

The total cost of the MCRC is estimated to be $13,000,000. The MCRC project is fully funded under the U.S. Navy Budget through the federal budgeting process. Funding has been approved for this project.

The total cost of the AFRC is estimated to be $28,000,000. The AFRC project is fully funded under the U.S. Army Budget through the federal budgeting process. Funding has been approved for this project. Design funds will be allocated in October 2010 and full funding will be allocated in October 2011.

The Department finds that the applicants have demonstrated adequate financial capacity to comply with Department standards.

3. TECHNICAL ABILITY:

The applicants provided resume information for key persons involved with the project and a list of projects successfully constructed by the applicants. The applicants also retained the services of Whitman, Requardt, & Associates, LLP, a professional engineering firm, to assist in the design and engineering of Phase I of the project.

The Department finds that the applicants have demonstrated adequate technical ability to comply with Department standards.

4. NOISE:

The applicants stated that no significant noise sources are associated with the daily operations of either reserve center. Noise from additional vehicular traffic is expected during the one weekend per month when reservists use the facilities for training.

The Department finds that the applicants have made adequate provision for the control of excessive environmental noise from the proposed project.

5. SCENIC CHARACTER:

The project site is located within the undeveloped southern portion of the Base. A small residential development is located northeast of the project site. The eastern portion of the site will remain undisturbed woodland and will provide a buffer to the residential development.

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:

Two vernal pools on the project site meet the definition of a significant vernal pool in the Significant Wildlife Habitat Rules, Chapter 335. There will be no disturbance of the critical terrestrial habitat within 100 feet of either significant vernal pool.

An existing road, running north to south, is located along the eastern property boundary and infringes on the 250-foot critical terrestrial habitat of both vernal pools. The road has converted approximately 2% of the critical terrestrial habitat of both significant vernal pools to developed area.

The applicants propose to establish a 30-foot wide utility corridor beginning at the intersection of Coombs Road and the eastern boundary road. The utility corridor will follow the existing road until it is greater than 250 feet from the pool edge of the northerly vernal pool before turning southwest and west where it will terminate at the northeast corner of the MCRC.

The MDIFW reviewed the proposed project. A wildlife biologist for MDIFW commented that narrow rights-of-way are permeable to amphibian migration movements but are not suitable as home range activity areas, and that the applicants should strive to minimize the size of the utility corridor footprint, especially within 250 feet of the pool edge of the northerly vernal pool. The utility corridor will be routed to avoid wetland impacts and will be located between 250 to 500 feet back from both significant vernal pools. Once the utilities have been laid, the applicants propose to regrade the corridor to its original condition and revegetate the corridor with grass.

The proposed project will have no further intrusion in the 250-foot critical terrestrial habitat of both significant vernal pools. The proposed project is expected to disturb approximately 23.6% (3.25 acres) of the area located within 500 feet of the northerly vernal pool and 2.2% (0.41 acres) of the area located within 500 feet of the southerly vernal pool.

The MDIFW further commented that it was not aware of any other wildlife habitat concerns on the project site, and that there are no known threatened or endangered fish species or habitat in the vicinity of the project.

The Department finds that the applicants have made adequate provision for the protection of wildlife and fisheries.

7. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The Maine Historic Preservation Commission reviewed the proposed project and stated that it 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 applicants are not proposing to utilize any formal buffer strips for the proposed project. The Department finds that the applicants have made adequate provision for buffer strips.

9. SOILS:

The applicants submitted a geotechnical report based on the soils found at the project site. This report was prepared by a registered professional engineer and reviewed by staff from the Division of Environmental Assessment (DEA) of the Bureau of Land and Water Quality (BLWQ).

The applicants indicated that blasting associated with construction of the project is likely. DEA reviewed the general blasting information submitted by the applicants that outlines the proposed procedures for removing rock from the project site. DEA recommended that the applicants be required to submit a site-specific Blasting Plan for blasting that occurs within 500 feet of non-owned off-site structures such as buildings and wells. Prior to the start of any blasting on the project site, the applicants must submit a site map showing blast areas and a blasting plan to the BLWQ for review and approval. The blasting plan must be prepared by a qualified blaster and include the blasting standards contained in 38 M.R.S.A §490-Z(14), and the plan must include an anticipated blast design/shot pattern specifically tailored to the project. The blasting plan may reference applicable blasting procedures, protocols, and standards already submitted in Section 20 of the application.

If a rock crusher is being utilized on site, the applicants must insure that the crusher is licensed by the Department's Bureau of Air Quality and is being operated in accordance with that license.

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:

Phase I of the proposed project, the MCRC, includes approximately 2.72 acres of impervious area and 6.2 acres of developed area. It lies within the watershed of Mare Brook. A biologist from DEA reviewed the project and commented that the tidally influenced portion of Mare Brook is not subject to the stream aquatic life standards. As a result, this portion of Mare Brook is not classified as an urban impaired stream. Therefore, the proposed project is not subject to the urban impaired stream standards. The applicants submitted a stormwater management plan based on the basic, general, and flooding standards contained in Department Rules, Chapter 500. The proposed stormwater management system for Phase I consists of grassed swales, an underdrained soil filter, two wet ponds, and a roof dripline filter.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicants 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.

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 applicants 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. The applicants will be responsible for the maintenance of all common facilities including the stormwater management system.

Storm sewer grit and sediment materials removed from stormwater control structures during maintenance activities must be disposed of in compliance with the Department's Solid Waste Management Rules.

(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 Standards: The applicants' stormwater management plan includes general 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 Best Management Practices (BMPs) that will control runoff from no less than 100% of the impervious area and no less than 99% of the developed area.

The stormwater management system proposed by the applicants was reviewed by, and revised in response to, comments from DWM. After a final review, DWM commented, in their May 10, 2010 Technical Review Memorandum, that the proposed stormwater management system is designed in accordance with the Chapter 500 General Standards and recommended that the design engineer or other qualified professional oversee the construction of the vegetated underdrained soil filter. Inspections must consist of an appropriate number of visits to the site to inspect the subgrade preparation of the underdrained soil filter, embankment construction, pipe bedding placement, liner placement, underdrain pipe installation, soil filter placement, and final stabilization, from initial ground disturbance to final stabilization of the filter. If necessary, the inspecting engineer will interpret the filter's location and construction plan for the contractor.

Within 14 days of the completion of the installation of the vegetated underdrained soil filter, the applicants must notify the BLWQ in writing stating that the filter has been installed and stabilized. Accompanying the engineer's notification must be a log of the engineer's inspections giving the date of each inspection, the time of each inspection, the items inspected on each visit, and include any testing data or sieve analysis data of the filter media. An inspection of the vegetated underdrained soil filter must also be performed by a professional engineer one year after the final stabilization of the filter. The engineer will notify the Department as to the filter's effectiveness and determine any maintenance items that are needed.

DWM further recommended that the person overseeing the construction of the vegetated underdrained soil filter be provided with testing data, media sampling, and sieve analyses from the contractor for review and approval. Sieve analyses and permeability testing must comply with the requirements stipulated in the Technical Review Memorandum and must be submitted to the Department with the engineer's notification.

The applicants submitted conceptual stormwater management plan for the AFRC demonstrating that the lot can be developed to meet the Department's stormwater treatment standards. Prior to start of construction for AFRC, specific design plans for stormwater management must be submitted to the BLWQ for review and approval.

Based on the stormwater system's design and DWM's review, the Department finds that the applicants have made adequate provision to ensure that the proposed project will meet the Chapter 500, General Standards provided that specific design plans for stormwater management for the AFRC are submitted to the BLWQ for review and approval prior to start of construction of the AFRC.

C. Flooding Standard: The applicants are 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.

DWM commented 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 applicants have 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.

The Department further finds that the proposed project will meet the Chapter 500 standards for discharge to freshwater or coastal wetlands and 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 the groundwater. Wastewater will be disposed of via onsite subsurface wastewater disposal systems at each reserve center as described in Finding 13.

The MCRC will be heated with a closed-loop geothermal system. No other withdrawal from, or discharge to, the groundwater is proposed with this project. The proposed geothermal system must be registered with the Department's Underground Injection Control Program. A copy of the registration for the geothermal system must be submitted to the BLWQ prior to start of construction of the geothermal system.

Based on DEA's review of the information discussed in Finding 13, the Department finds that the proposed project will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur. The Department further finds that the proposed project will not have an unreasonable adverse effect on ground water quality or quantity provided that a copy of the registration for the geothermal system is submitted to the BLWQ prior to start of construction of the geothermal system.

12. WATER SUPPLY:

When completed, the MCRC is anticipated to use 225 gallons of water per day during normal workdays and approximately 3,000 gallons per day during drill weekends, and the AFRC is anticipated to use 375 gallons of water per day during normal workdays and approximately 3,000 gallons per day during drill weekends. Water will be supplied by the Brunswick & Topsham Water District. The applicants submitted a letter from the District, dated January 7, 2010, indicating that it will be capable of servicing this project.

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

13. WASTEWATER DISPOSAL:

Wastewater will be disposed of by an individual subsurface wastewater disposal system for each reserve center. The applicants submitted the soil survey map and report discussed in Finding 9. Each individual system must be designed to meet the requirements of the Maine State Plumbing Code.

The application included details of a proposed subsurface wastewater disposal system for the MCRC. This system is designed to treat an average flow of 800 gallons per day (gpd) and discharge a maximum of 1,200 gpd during drill weekends. To provide additional

storage during drill weekends, the system includes a 5,000-gallon septic tank, a 5,000-gallon pump chamber, and an aerobic treatment unit. This information was reviewed by, and revised in response to comments from DEA. DEA commented that the aerobic treatment unit is expected to prolong the life of the disposal field and recommended that the applicants conduct monitoring of influent and effluent flows to this unit. The applicants agreed to monitor for biochemical oxygen demand and total suspended solids in accordance with the manufacturer's guidelines.

A similar subsurface wastewater disposal system is proposed for the AFRC. The application included soil information that indicates a similar system can be built on the project site. Once final site layout of the AFRC and the subsurface wastewater disposal system are determined, specific design plans for the subsurface wastewater disposal system must be submitted to the BLWQ for review and approval.

Based on DEA's comments, the Department finds that the proposed wastewater disposal systems will be built on suitable soil types and that Maine's Drinking Water Standard for nitrates will be met at the project's property lines provided that specific design plans for the subsurface wastewater disposal system to be used at the AFRC are submitted to the BLWQ for review and approval.

14. SOLID WASTE:

When completed, the MCRC and AFRC are anticipated to generate a total of 40 cubic yards of household and general office solid waste per year. All general solid wastes from both facilities will be disposed of at the Graham Road Landfill in Brunswick, or at Pine Tree Waste's West Bath facility, both of which are currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

The MCRC and AFRC will generate approximately 300 cubic yards of stumps and grubbings. All stumps and grubbings 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 MCRC will generate approximately 75 cubic yards of construction debris and demolition debris. All construction debris and demolition debris must be disposed of at licensed disposal facilities, which are currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine. The choice of hauler and disposal site will be the responsibility of the contractor. The application included a list of haulers used by contractors in the Brunswick area. The disposal facilities listed were the Graham Road Landfill in Brunswick and Pine Tree Waste's West Bath facility. Both facilities 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 applicants have made adequate provision for solid waste disposal.

15. FLOODING:

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. WETLAND IMPACTS:

The applicants propose to alter 44,393 square feet (1.2 acres) of forested freshwater wetlands to construct buildings, parking areas, maneuvering areas, and a portion of the stormwater management system.

The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require the applicants to 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 applicants submitted an alternatives analysis for the proposed project completed by Whitman, Requardt, & Associates, LLP and dated January 6, 2010. The applicants examined several locations within the Base, taking into consideration parcel availability, existing environmental impacts, and siting restrictions for military installations. Following the screening analysis, the selected site was determined best to meet the purpose and need of the proposed project. The applicants were unable to reduce the size, scope, or density of the project in a manner that would significantly reduce wetland impacts while maintaining viability of the project.

B. Minimal Alteration. The amount of forested wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. Initial design layouts were examined for wetland impacts. This work was performed prior to the Department's determination that the two vernal pools are significant vernal pools and therefore subject to a greater level of protection under the NRPA. Subsequent to this determination, the applicants determined that impacts to forested wetlands would be less damaging to the environment than impacts to vernal pool habitat, and choose to limit development to the western portion of the parcel. The selected site layout reflects this decision.

Subsequent to the initial site layout, funding for the AFRC was delayed. The need to complete construction of the MCRC prior to the closure of the Base contributed to redesign of the overall project. Shared facilities for the two reserve centers is now limited to the parking lot and the stormwater management system.

C. Compensation. Compensation is required to achieve the goal of no net loss of wetland and stream functions and values. In accordance with Chapter 310, Section 5C, compensation is required to achieve the goal of no net loss of wetland functions and

values. The applicants submitted a functional assessment, dated May 26, 2010, which described the wetlands to be altered by the proposed project and identified their primary functions and values as groundwater recharge/discharge. Other functions occurring in the wetlands include floodflow alteration, sediment/toxicant retention, nutrient removal, sediment/shoreline stabilization, and wildlife habitat.

After considering several compensation options, the applicants elected to make a contribution into the Maine Natural Resource Conservation Fund (MNRCF) in the amount of $180,679.51 to compensate for the 44,393 square feet of impacts to freshwater wetlands associated with the proposed project.

The Department finds that the applicants have avoided and minimized 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.

17. ALL OTHER:

All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-20116-87-B-N, and subsequent orders.

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.

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 applicants have provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards.

B. The applicants have 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.

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.

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 applicants retain a professional engineer to inspect and document installation of stormwater components, as discussed in Finding 10 and that specific design plans for stormwater management for the AFRC are submitted to the BLWQ for review and approval prior to start of construction of the AFRC.

E. The proposed development will not pose an unreasonable risk that a discharge to a groundwater aquifer will occur provided that a copy of the registration for the geothermal system is submitted to the BLWQ prior to start of construction of the geothermal system.

F. The applicants have 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 specific design plans for the subsurface wastewater disposal system are submitted to the BLWQ for review and approval prior to start of construction of the AFRC and storm sewer grit and sediment materials removed from the stormwater control structures during maintenance activities are disposed of in compliance with the Department's Solid Waste Management Rules.

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 DEPARTMENT OF THE NAVY and the DEPARTMENT OF THE ARMY to construct the MCRC and AFRC as described in Finding 1, 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 applicants shall take all necessary actions to ensure that their activities or those of their 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 applicants 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. Prior to the start of any blasting on the project site within 500 feet of non-owned off-site structures, the applicants shall submit a site map showing blast areas and a blasting plan to the BLWQ for review and approval. The blasting plan shall be prepared by a qualified blaster and include the blasting standards contained in 38 M.R.S.A §490-Z(14), and the plan shall include an anticipated blast design/shot pattern specifically tailored to the project. The blasting plan may reference applicable blasting procedures, protocols, and standards already submitted in Section 20 of the application.

6. Prior the start of construction of the AFRC, the applicants shall submit specific design plans for stormwater management for the AFRC to the BLWQ for review and approval.

7. Prior the start of construction of the AFRC, the applicants shall submit specific design plans for the subsurface wastewater disposal system for the AFRC to the BLWQ for review and approval.

8. Prior the start of start of construction of the geothermal system, a copy of the registration for the geothermal system shall be submitted to the BLWQ.

9. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-20116-87-B-N, and subsequent orders, and are incorporated herein.

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

This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date. 2010.06.04 09:54:44 -04'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES…

rlg/l#20116ma & 20116nn/ats#71461 & 71462

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.**

(2/81)/Revised November 1, 1979

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.

J.

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

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.

United States Treasury 15-51/000 R 107,832,652

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MAR 25,2010

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