

May 16, 2024

Ms. Erin Wilson
Federal Consistency Coordinator, Maine Coastal Program
Maine Department of Marine Resources
21 State House Station
Augusta, ME 04333-0021

Dear Ms. Wilson,

We seek a federal consistency determination regarding the Coastal Zone Management Act as it relates to a proposed renovation project at 159 Old Bar Harbor Road, Bar Harbor, Maine that is funded by a federal grant from the Health Resources and Services Administration (HRSA).

The proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the coastal management program.

The activity includes modernization of an existing 1,134 sq. ft. single story structure that sits within the coastal zone. We seek to replace existing windows, and roofing shingles to increase energy efficiency, as well as to weather-proof and dampen the impact of external noise and vibration on ongoing research activities conducted within the structure. The project also includes installation of a new 1,500 gallon per day wastewater treatment system (on-lot septic system) Elgin drains, a new pump station and distribution box and underground electrical utilities.

Attached is our review and evaluation of the relevant enforceable policies from the Maine Guide to Federal Consistency Review with a brief description of compliance details when applicable. We believe our impact to the coastal zone to be “de-minimis” in nature. Please do not hesitate to contact us with any questions or concerns.

Thank you again for your assistance, and we look forward to receiving your determination.

Sincerely,



Wynne J. Guglielmo (she/her/hers)
Safety & Compliance Manager, MDIBL
Maine Shoreland Zoning Inspector #1585
AHERA Building Inspector # AI-0645
207-669-0492 iPhone Emergency number (text/talk)
207-288-9880, Ext. 149 | mdibl.org



Amy Pelletier
Director of Sponsored Programs
Signing Official

Relevant Enforceable Policies from the Maine Guide to Federal Consistency Review

The following policies apply with a de minimus impact:

- **Permit by Rule standards** (DEP rules ch. 305), as amended effective June 8, 2012;

Applicable and filed on May 13, 2024, and under review by the Maine DEP. See attachment.

- **Variance criteria; performance standards (storage of petroleum products)** (DEP rules ch. 378), as amended effective June 8, 2012;

The MDI Biological Laboratory has a Spill Prevention and Counter Measure Control Plan.

- **Erosion Control and Sedimentation Law** (38 M.R.S. §420-C)

This will be addressed under the Permit by Rule application and will be supervised by a Maine Shoreland Inspector

- **Maine Hazardous Waste, Septage and Solid Waste Management Act** (38 M.R.S. §§1301 to 1310-AA; 1316 to 1316-L; and 1317 to 1319-Y)

This project involves upgrading the lower campus wastewater management system. The MDI Biological Laboratory is a small quantity generator of hazardous waste. Our State & Federal RCRA ID is MED077470003

- **Asbestos Law** (38 M.R.S. §§1273 and 1281)

NA. We had an AHERA survey conducted and there were no suspected asbestos-containing materials identified. This was submitted to HRSA.

- **Lead Abatement Law** (38 M.R.S. §§1296 and 1298(3))

A lead-based paint survey was conducted in the Fall of 2023 and a small amount of lead-based paint was noted on the exterior soffits. This material will not be disturbed for this project and if in the future it will, the work will be completed by a certified contractor licensed to abate lead-based paint. This report was submitted to HRSA.

- **Oil Discharge Prevention & Pollution Control Law** (38 M.R.S. §§541 to 560)

The MDI Biological Laboratory currently has more than 1320 gallons of petroleum storage on site. Our Spill Prevention and Counter Measure Control plan is in place and ensures compliance.

- **Mandatory Shoreland Zoning Law** (38 M.R.S. §§435 to 448) amended effective January 26, 2015

Any work that disturbs soil within 250 feet of the shoreland will protect state and federal waters by requiring an erosion and sedimentation plan as well as routine supervision of the project to ascertain that all structural BMPs are in place throughout the project before any soil/earth is disturbed. This work (septic system upgrade/PBR) will be monitored by a Maine-certified Shoreland Zoning Inspector.

- **Coastal Management Policies Act** (38 M.R.S. §§1801 to 1802) **De minimis**

- **Solid Waste Management and Recycling Law** (38 M.R.S. §§2101, 2133, sub§2(A) and 2165)
A de minimis impact from regular trash & recyclable receptacles onsite

The following policies DO NOT apply:

- **Natural Resources Protection Act** (38 M.R.S. §§480-A to 480-S; and 480-U to 480-II)
- **Wetlands Protection rules** (Department of Environmental Protection (DEP) rules ch. 310), as amended effective November 11, 2018;
- **Coastal Sand Dune rules** (DEP rules ch. 355), as amended effective October 26, 2014;
- **Significant habitat rules** (DEP rules ch. 335), as amended effective January 7, 2014;
- **Department of Inland Fisheries and Wildlife (DIFW) rules** ch. 10, as amended effective October 21, 2009; and **Scenic Impact rules** (DEP rules ch. 315), as effective June 29, 2003. FF)
- **Definitions of terms used in the Site Location of Development Law and regulations** (DEP rules ch. 371), as amended effective May 4, 1996;
- **Policies and procedures** (DEP rules ch. 372), as amended effective December 27, 2011;
- **Financial capacity standard** (DEP rules ch. 373), as amended effective June 2, 2016;
- **No adverse environmental impact standard** (DEP rules ch. 375), as amended effective June 2, 2016;
- **Soil types standard** (DEP rules ch. 376), as effective May 4, 1996;
- **Review of roads** (DEP rules ch. 377), as effective May 4, 1996;
- **Long-Term Construction Projects under the Site Location of Development Act** (DEP rules ch. 380), as amended effective June 2, 2016
- **Maine Metallic Mineral Mining Act** (38 M.R.S. §§490-LL-490-TT)
- **Metallic Mineral Exploration, Advanced Exploration and Mining rules** (DEP rules ch. 200), as adopted effective December 28, 2017
- **Maine DOT Traffic Movement Permit Law** (23 M.R.S. §704-A)
- **Expedited Permitting of Grid-scale Wind Energy Development** (35-A M.R.S. §§3451-3459)
- **Designated Scenic Viewpoints of State or National Significance, Located on Public Reserved Land or on a Publicly Accessible Trail Used Exclusively for Pedestrian Use, for Consideration in the Permitting of Expedited Wind Energy Development** (Department of Agriculture, Conservation and Forestry rules ch. 6), as effective October 18, 2021
- **Wind Energy Standards** (DEP rules ch. 382), as adopted effective April 30, 2018

- **Solar Energy Development Decommissioning Law** (35-A M.R.S. chapter 34-D)
 - **Farm and Open Space Tax Law** (36 M.R.S. §1102, sub-§4) (related definition of “farmland”)
 - **Storm Water Management Law** (38 M.R.S. §420-D)
 - **Storm Water Management rules** (DEP rules ch. 500), as amended effective August 12, 2015
 - **Storm Water Management Compensation Fees and Mitigation Credit** (DEP rules ch. 501), as amended effective May 22, 2016
 - **Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams** (DEP rules ch. 502), as amended effective May 23, 2018
 - **Maine Waterway Development and Conservation Act** (38 M.R.S. §§630 to 636A; and 640)
 - **Administrative Regulations for Hydropower Projects** (DEP rules ch. 450/LUPC rules ch. 11), as adopted effective November 2, 2017
 - **Protection and Improvement of Air Law** (38 M.R.S. §§581 to 610-A, -B)¹
 - **Regulatory definitions** (DEP rules ch. 100), as amended effective January 14, 2019;
 - **Growth offset regulations** (DEP rules ch. 113), as amended effective January 14, 2019;
 - **Major and minor source air emissions license regulations** (DEP rules ch. 115), as amended effective December 1, 2012
 - **Source surveillance** (DEP rules ch. 117), as amended effective May 18, 2011
 - **Gasoline vapor recovery** (DEP rules ch. 118), as amended effective April 3, 2011
 - **RACT for VOCs emitting facilities** (DEP rules ch. 134), as effective May 8, 1996
 - **RACT for nitrous oxides emitting facilities** (DEP rules ch. 138), as effective May 8, 1996
 - **Part 70 air emission regulations** (DEP rules ch. 140), as amended effective December 1, 2012
 - **Protection and Improvement of Waters Act**² (38 M.R.S. §§361-A, 362, 362-A, 363-D, and 372; 410-N; 411 to 424; 451, 451-A, and 452; and 464 to 470)
 - **Nutrient Management Act** (7 M.R.S. §§4201-4214)
 - **Land Use Regulation Law** (12 M.R.S. §§681 to 689)
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- **Definitions** (LUPC rules ch. 2), as effective November 1, 2021)
 - **Land Use Districts and Standards** (LUPC rules ch. 10), as amended effective November 1, 2021
 - **Land Use District Requirements for Metallic Mineral Mining and Level C Mineral Exploration Activities** (LUPC rules ch. 12), as amended effective May 27, 2013
 - **Metallic Mineral Exploration, Advanced Exploration, and Mining** (LUPC rules ch. 13), as effective September 20, 2018
 - **Uncontrolled Hazardous Substance Sites Law** (38 M.R.S. §§1361 – 1371)
 - **Sale of Consumer Products Affecting the Environmental Law** (38 M.R.S. §§1608 and 1609-10)
 - **Mercury-Added Products and Services Law** (38 M.R.S. §§1661-1661-C; 1665-A, B; and 1672)
 - **Beneficial Use of Solid Waste** (DEP rules ch. 418), as amended effective July 8, 2018
 - **Priority Toxic Chemical Use Reduction Law** (38 M.R.S. §§2321-2330)
 - **Wellhead Protection Law** (38 M.R.S. §§1391-1399)
 - **Wellhead Protection: Siting of Facilities that Pose a Significant Threat to Drinking Water** (DEP rules ch. 700), as effective April 24, 2010
 - **Siting of Oil Storage Facilities** (DEP rules ch. 692), as amended effective August 7, 2019; and **Rules and Regulations for Flammable and Combustible Liquids** (Dept. of Public Safety rules ch. 34), as amended effective March 17, 2009
 - **Nuclear Facility Decommissioning Laws** (PL 1999 c. 739 and PL 1999 c. 741)
 - **Oil Storage Facilities and Ground Water Protection Law** (38 M.R.S. §§561; 562A; 563, sub-§1(A) and 2; 563-A-B; 564; 565-A; 566-A; 568; 568-A-B; 569-C; 570; and 570-C-G, I-M)
 - **Rules for Underground Storage Facilities** (DEP rules ch. 691), as amended effective September 26, 2018
 - **Maine Endangered Species Act** (12 MRSA §§12801-12810 [inland species]; 12 M.R.S. §6971-6976 [marine species]; and 12 M.R.S. §10001, sub-§§19 and 62 [definitions])
 - **Endangered species** (DIFW rules ch. 8), as amended effective April 8, 2017
 - **General licensing and enforcement authorities; fees** (38 M.R.S. §§341-D; 344 to 349; and 352-353, and 353-A, -B[fees])³
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- **Maine Rivers Act** (12 M.R.S. §§403 and 407)
- **Marine Resources Law** (12 M.R.S. §§6052, sub-§6; 6171 to 6192; and 6432-A)
- **Importing of Certain Marine Organisms** (12 M.R.S. §6071)
- **Aquaculture Leasing Laws** (12 M.R.S. §6071-A (definitions); 12 M.R.S. §6072 (research and aquaculture leases); 12 M.R.S. §6072-A (limited-purpose lease for commercial or scientific research); 12 M.R.S. §6073 (exclusivity; prohibition or interference))
- **Aquaculture lease regulations** (DMR rules ch. 2), as amended effective March 13, 2022
- **Importation of live marine organisms regulation** (DMR rules ch. 24), as amended effective August 10, 2021
- **Subdivision Law** (30-A M.R.S. §§4401 to 4408)
- **Forest Practices Act (12 M.R.S. §8868, sub-§4)** (related definition of timber harvesting)
- **Coastal Barrier Resources System Act** (38 M.R.S. §§1901 to 1905)

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM**
(For use with DEP Regulation, Natural Resources Protection Act - Permit by Rule Standards, Chapter 305)

APPLICANT INFORMATION (Owner)				AGENT INFORMATION (If Applying on Behalf of Owner)			
Name:	MDI Biological Laboratory			Name:	Andrew McCullough, PE		
Mailing Address:	PO Box 35			Mailing Address:	PO Box 1497		
Mailing Address:				Mailing Address:			
Town/State/Zip:	Salisbury Cove, ME 05672			Town/State/Zip:	Ellsworth, ME 04605		
Daytime Phone #:	(207) 288-9880	Ext:	149	Daytime Phone #:	(207) 460-4428	Ext:	
Email Address:	wguglielmo@mdibl.org			Email Address:	mccengr@gmail.com		
PROJECT INFORMATION							
Part of a larger project? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves work below mean low water? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Name of waterbody:	Frenchmen Bay
Project Town:	Bar Harbor	Town Email Address:	achamberlain@barharbormail.org		Map and Lot Number:	M208, L3	
Brief Project Description:	See Attached						
Project Location & Brief Directions to Site:	See Attached						

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work that meets the requirements for Permit-by-Rule (PBR) under DEP Rules, [Chapter 305](#). I and my agent(s), if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. (9) Utility Crossing | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (17) Transfer/Permit Extension |
| <input checked="" type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (11) State Transportation Facilities | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Veg. | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (19) Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (13) F&W Creat./Water Qual. Improv. | <input type="checkbox"/> Sec. (20) Act. Near Waterfowl/Bird Habitat |
| <input type="checkbox"/> Sec. (8) Shoreline Stabilization | <input type="checkbox"/> Sec. (15) Public Boat Ramps | |

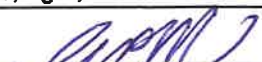
NOTE: Municipal permits also *may* be required. Contact your local code enforcement office for information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS AND FEE

- Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
- Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
- Attach** Proof of Legal Name if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's registration information (available at <http://icrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>). Individuals and municipalities are not required to provide any proof of identity.

FEE: Pay by credit card at the [Payment Portal](#). The Permit-by-Rule fee may be found here <https://www.maine.gov/dep/feeschedule.pdf> and is currently \$266.

- Attach** payment confirmation from the Payment Portal when filing this notification form.

Signature & Certification:	
<ul style="list-style-type: none"> • I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. • I understand that this PBR becomes effective 14 calendar days after receipt by the Department of this completed form, the required submissions, and fee, <i>unless the Department approves or denies the PBR prior to that date.</i> 	
By signing this Notification Form, I represent that the project meets all applicability requirements and standards in Chapter 305 rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.	
Signature of Agent or Applicant (may be typed):	Andrew McCullough 
Date:	05/09/2024

Keep a copy as a record of permit. Email this completed form with attachments to DEP at: DEP.PBRNotification@maine.gov. DEP will send a copy to the Town Office as evidence of DEP's receipt of notification. No further authorization will be issued by DEP after receipt of notice. A PBR is valid for two years, except Section 4, "Replacement of Structures," are valid for three years. **Work carried out in violation of the Natural Resources Protection Act or any provision in Chapter 305 is subject to enforcement.**

MDI Biological Laboratory
Old Bar Harbor Road

NRPA Permit-by-Rule Application Submittals

Project Description:

Wastewater presently drains to a pump station located directly adjacent to the shoreline. This project will remove the existing pump station and replace it with a new septic tank or tanks and pump station 25+/- feet from the highest annual tide. Silt Fence or Coir Logs will be installed for temporary sediment and erosion control. Loam, seed and mulch will be spread on disturbed areas to provide permanent stabilization.

Project Location:

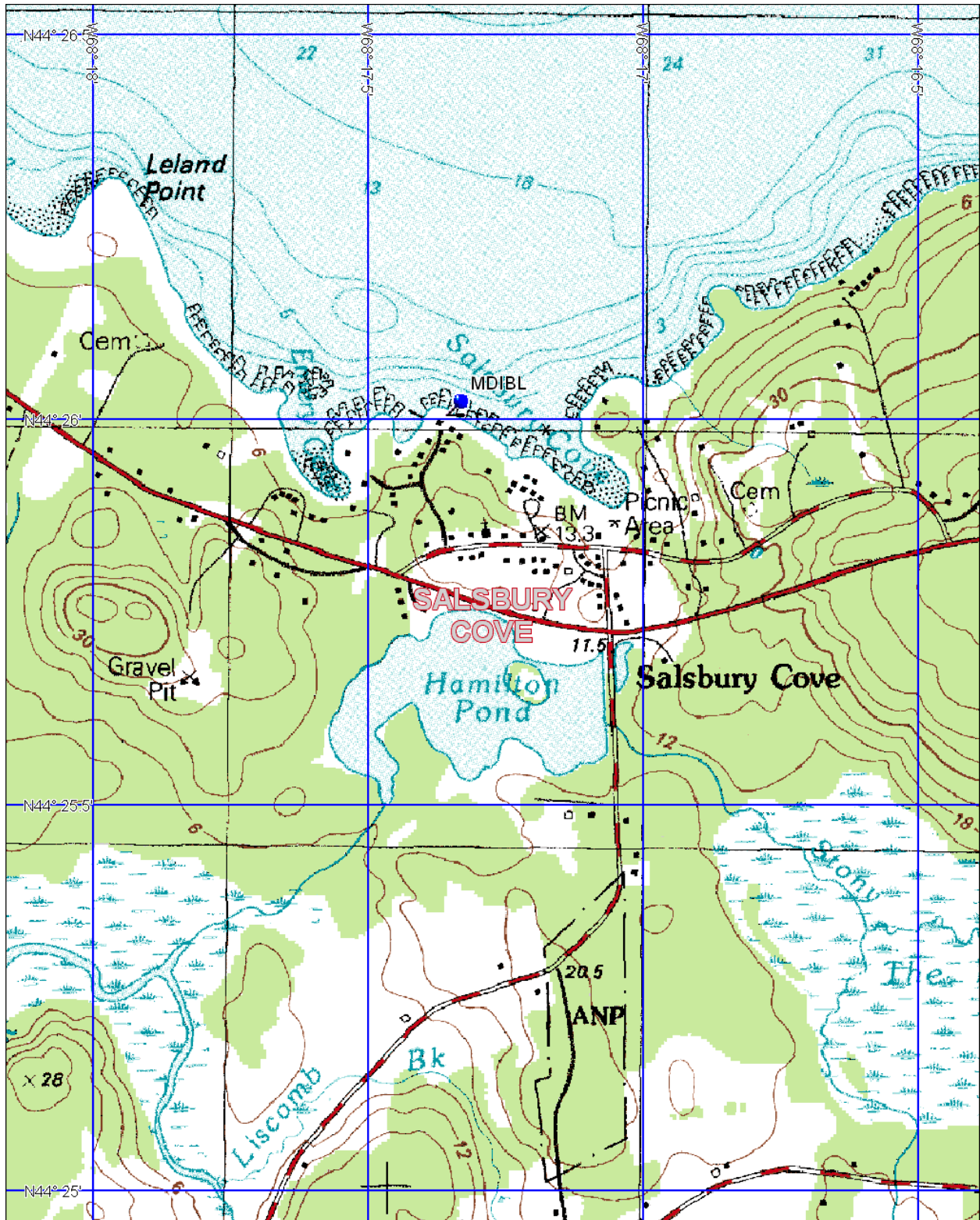
Latitude/ Longitude

N 44° 25' 59.8"

W 68° 17' 21.46"

Directions to the Site: Begin at the traffic light at the intersection of SR 3 and SR 102 at the northwest end of Mount Desert Island. Proceed 4.1 miles southwest on SR 3 toward Bar Harbor. Turn left onto the Old Bar Harbor Road and proceed 350 feet. Turn left and proceed 600 feet on Bio Lab Road; continue straight on Star Point Road 400'+/- to the center of the Laboratory Campus. The project site is adjacent to the shoreline.

USGS Site Location Map



Site Photos (taken 5/2/2024)

Photo 1



Photo 2



Photo 3

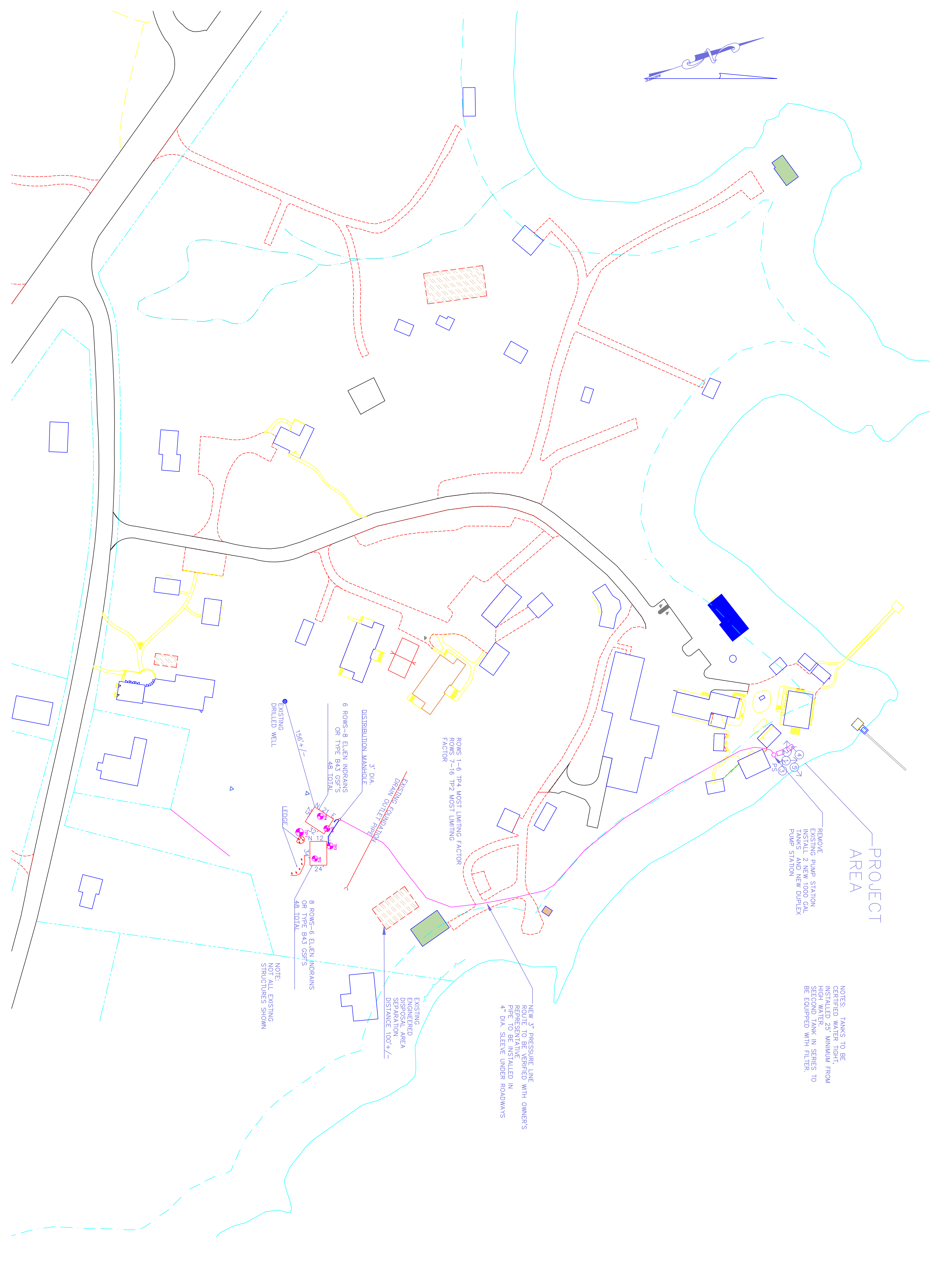


Photo 4



Photo 5





PROJECT AREA

BEFORE PUMP STATION
EXISTING 2 NEW 1000 GAL
TANKS AND NEW DUPLEX
PUMP STATION

NOTES: TANKS TO BE
CERTIFIED WATER TIGHT,
WITH A MINIMUM 20' FROM
HIGH WATER. SECOND TANK IN SERIES TO
BE EQUIPPED WITH FILTER.

NEW 3" PRESSURE LINE
ROUTE TO BE VERIFIED WITH OWNER'S
PRESSURE LINE CALLED IN
BY THE OWNER. 4" DIA. SLEEVE UNDER ROADWAYS

ROWS 1-6 TP4 MOST LIMITING FACTOR
ROWS 7-16 TP2 MOST LIMITING FACTOR

EXISTING ENGINEERED DISPOSAL AREA
SEPARATION DISTANCE 100'+/-

EXISTING FOUNDATION
DRAIN OUTLET PIPE

3" DIA.
DISTRIBUTION MANHOLE

6 ROWS-8 E-10N ANDRANS
ON TYPE B-43 CSFS
48 TOTAL

8 ROWS-6 E-10N ANDRANS
ON TYPE B-43 CSFS
48 TOTAL

NOTE:
NOT ALL EXISTING
STRUCTURES SHOWN

EXISTING
DRILLED WELL

LEDGE

Project 2920		Sheet C-101
Date 12/12/2023		Scale 1" = 60'
SITE PLAN SUBSURFACE WASTEWATER DISPOSAL SYSTEM MDI BIOLOGICAL LABORATORY 159 Old Bar Harbor Road Bar Harbor, Maine		
From Name and Address Andrew McCullough Engineering Consultants 93 Bucksport Road Ellsworth, ME 207-667-6551 mceengr@gmail.com		
Record Owner and Address _____ _____ _____		
No.	Revision/Issue	Date