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STATE OF MAINE
17 State House Station
Augusta, ME 04333

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IN THE MATTER OF

RIST/BRUNET **FAMILY TRUST**
Portland, Cumberland County
OFFICE/WAREHOUSE EXPANSION
L-7696-TB-G-N (approval)

) NATURAL RESOURCES PROTECTION ACT
) FRESHWATER WETLAND ALTERATION
) WATER QUALITY CERTIFICATION
) FINDINGS OF FACT AND ORDER

Project Description: The applicant proposes to alter 8,531 square feet of forested freshwater wetland to add **23,400** square feet of office building and warehouse and more parking area to an existing manufacturing facility. The proposed wetland fill is shown on a plan entitled "Wetland Alteration of 400 Riverside Street," prepared by Sebago Technics and dated June 15, 2004. The proposed project is located on the west side of Riverside Street in the City of Portland. The applicant also submitted a Permit-By-Rule Notification Form (PBR #35938) stating that activities occurring adjacent to a stream and an outfall pipe will be constructed in accordance with Chapter 305 of the Natural Resources Protection Act. The location of the expansion was chosen to maximize its distance to the Presumpscot River while minimizing impacts to the wetlands. The amount of wetland alteration is the minimum amount necessary to allow the current tenant of the property to expand its business. The parking/building expansion was designed using 1:1 sideslopes to further minimize the wetland fill.

Permit for:

☒ Tier 1

DEP Decision:

☒ Approved ☐ Denied (see attached letter)

CORPS Action:

☒ The Corps has been notified of your application. The following are subject to Federal screening: (1) projects with previously authorized or unauthorized work, in combination with a Tier 1 permit for a single and complete project, which total more than 15,000 square feet of altered area; (2) projects with multiple state permits and/or state exemptions which apply to a single and complete project that total more than 15,000 square feet of altered area; and (3) projects that may impact a vernal pool, as determined by the State of Maine or the Corps. If your activity is listed above, **Corps approval is required for your project.** For information regarding the status of your application contact the Corps' Maine Project Office at 623-8367.



Standard Conditions:

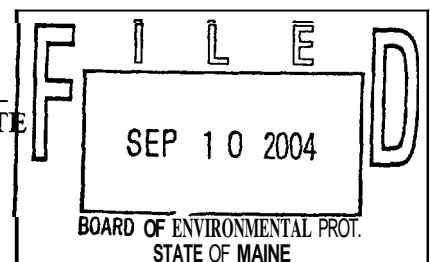
ZONING

[Signature]

DAWN R. GALLAGHER, COMMISSIONER
Date of initial application August 10, 2004
Date application accepted for processing August 27, 2004
Date tiled with Board of Environmental Protection
MR/ATS53063/T#L7696GN

9/10/04

DATE



**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 than 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 from 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



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 & 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.