

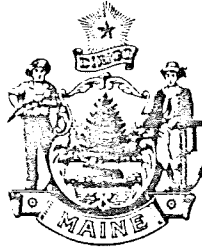
MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

December 23, 1981

Henry E. Warren, Commissioner
Department of Environmental Protection
State House
Augusta, Maine 04333

Re: L. L. Bean, Inc. Discount Policy

Dear Henry:

You have asked for the opinion of our office as to whether it would be legal for members of the Department of Environmental Protection and Board of Environmental Protection, if they chose to do so, to ask L. L. Bean, Inc. to reinstate a discount policy that had been available and used by the Department between May 2, 1973 and July 20, 1978.^{1/} Because L. L. Bean, Inc. has pending before the Department an application to amend its existing Site Location of Development permit, § 605 of the Maine Criminal Code would make both the offer of a discount by L. L. Bean, Inc. and the acceptance of a discount by Board members or Department employees a Class E crime.

It would be helpful to review briefly the relationship between the Department and L. L. Bean, Inc, in terms of the discount policy and company's three Site Location applications, as well as the applicable statute and its underlying policy bases.

On April 3, 1973 the Department asked L. L. Bean, Inc. to extend its discount policy^{2/} which had already been given to other

^{1/} It is our understanding that L. L. Bean, Inc. has not offered to reinstate the discount policy and has not been asked by the Department if the policy could be reinstated.

^{2/} A copy of the April 3, 1973 letter is attached to this opinion. I have also attached a copy of other relevant documents in order that Department employees and Board members fully understand the history of the discount policy and why it is no longer legal.

Henry E. Warren, Commissioner
Department of Environmental Protection
Page Two
December 23, 1981

state agencies "involved with Maine's ecology." On April 9, 1973, L. L. Bean, Inc. acceded to the Department's request and on May 2, 1973 the Board agreed that the discount could be accepted.^{3/} The minutes of the May 2, 1973 Board meeting indicate that "the Chairman also told the Board that the Department has no dealings with this company and that no applications concerning this company will be received." Three months later, on August 6, 1973, L. L. Bean, Inc. applied to the Board for Site Location of Development (38 M.R.S.A. § 481 et seq.) approval of a \$1.2 million, 100,000 square-foot warehouse expansion. Site approval was granted on September 12, 1973. There was no further mention of the discount policy in the Board minutes after May 2, 1973.

After first accepting the discount policy on May 2, 1973, the Department revised the procedures for the discount policy on three occasions, the latest being November 28, 1977.^{4/} Then on June 16, 1978 L. L. Bean, Inc. made its second application to the Department for Site Location approval, this time for a \$4.5 million expansion of its warehousing and manufacturing facilities.

Between the time the discount was first requested by the Department in 1973 and the time L. L. Bean, Inc. filed its June 16, 1978 Site Location amendment application, the State of Maine finished rewriting its criminal statutes. The Maine Criminal Code became effective on May 1, 1976. P. L. 1975, c. 740. Included in the Code is a section, new to Maine law, entitled "Improper Gifts to Public Servants," 17-A M.R.S.A. § 605. That new section and the Comment to it read as follows:

§ 605. Improper gifts to public servants

1. A person is guilty of improper gifts to public servants if:
 - A. Being a public servant he solicits, accepts or agrees to accept any

^{3/} Copies of the April 9, 1973 letter and the first two pages of the May 2, 1973 Board minutes are attached.

^{4/} A copy of the November 28, 1977 revision is attached. In general the company offered a one-third discount on mail order purchases for personal use, with certain restrictions on purchase procedures and items eligible for the discount.

Henry E. Warren, Commissioner
Department of Environmental Protection
Page Three
December 23, 1981

pecuniary benefit from a person who he knows is or is likely to become subject to or interested in any matter or action pending before or contemplated by himself or the governmental body with which he is affiliated; or

B. He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph A.

2. Improper gifts to public servants is a Class E crime.

Comment - 1975

This section supplements the bribery provisions which prohibit giving things to public servants with the wrong motive, by prohibiting such transactions when the thing given comes from the "wrong" source. It seems to be a warranted assumption that gifts from persons who have an interest in an official matter before the public servant would be so often made with the hope and intent of influencing him that it is appropriate to prohibit all such gifts generally. This prohibition also serves to contribute significantly to the appearance, as well as the substance, of public integrity.

Section 605 has not been amended since it became effective in 1976. Although § 605 was not in effect when the L. L. Bean, Inc. discount was extended to Department employees in 1973, its existence when L. L. Bean, Inc. filed for its 1978 Site Location amendment led to two actions: the first, a memorandum from you to Department employees on July 20, 1978 which notified them that the L. L. Bean, Inc. discount policy had been terminated, and the second, a memorandum from Philip Ahrens, Assistant Attorney General, to Donald Alexander, then Deputy Attorney General, which advised him of the history of the discount policy and the actions you took when notified

Henry E. Warren, Commissioner
Department of Environmental Protection
Page Four
December 23, 1981

of § 605 and which recommended no further action.^{5/}

On July 26, 1978, six days after the discount policy was terminated, L. L. Bean, Inc. received Board approval of its Site Location amendment request subject to so-called "standard" conditions of approval as well as 3 special conditions. On August 18, 1978 the Department certified that L. L. Bean, Inc. had complied with special condition #2. On October 3, 1979 the Regional Director of Enforcement for the Land Bureau wrote to L. L. Bean, Inc. to indicate that L. L. Bean, Inc. had complied with all conditions attached to the July 26, 1978 Board Order.^{6/}

You have since asked our office if the L. L. Bean, Inc. discount policy could be requested by the Department. On October 7, 1981, after your opinion request was made, L. L. Bean, Inc. filed with the Department an application to further amend its Site Location permit. The company proposed to construct a \$2 million, 43,000 square foot office building and to add parking space for 60 cars, landscaping and a sedimentation basin. On November 12, 1981 the application was approved by staff order.^{7/} The staff approval is subject to the standard conditions of approval. L. L. Bean, Inc. has started but not yet completed construction of the project.

Because the project has not yet been completed, certain of the Department's standard conditions of approval have direct application to the project. See especially standard conditions 1, 2, 5 and 7, which by their terms require completion of the project before the Board could certify that L. L. Bean, Inc. has complied with the November 12, 1981 Site Location order. Note also that the Department has included in capital letters at the top of the list of "Standard Conditions" the following statement: "Strict conformance with the standard and special conditions of this approval is necessary for the project to meet the statutory criteria for approval." Until a person who has been issued a Site Location Order has complied with all standard and special conditions of approval, that person is "subject to or interested in" a "matter or action" which is still "pending" before the Department. Therefore until L. L. Bean, Inc. has completed its project, the prohibitions of § 605 remain applicable and Department employees could not ask for reinstatement of the discount policy.

^{5/} Copies of both memoranda are attached.

^{6/} Copy attached.

^{7/} Copy attached, together with the Department's standard conditions of approval.

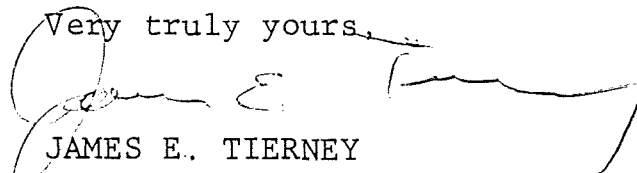
Henry E. Warren, Commissioner
Department of Environmental Protection
Page Five
December 23, 1981

A different problem would arise if no action or matter were "pending" before the Board. If no action or matter is pending, the question then becomes whether the person providing a pecuniary benefit is a "person who (the public servant) knows is or is likely to become subject to or interested in any matter or action . . . contemplated by himself or the government body with which he is affiliated. . . ." Resolution of that question depends on the facts at a particular time. Since the relevant facts can change significantly over a given period of time, it is not possible to answer now whether at some indeterminate time in the future it might be possible for the Department, solely as a legal rather than as a policy question, to ask L. L. Bean, Inc. to reinstate its discount policy.

However, in order for the Department to avoid any potential criminal liability, we suggest that as an operating principle the Department refrain from soliciting or accepting any discount or other pecuniary benefit from any person either if it is likely that the person will come within the regulatory authority of the Department of Environmental Protection in the reasonably foreseeable future or if in the past the person has received a license or permit which has included a condition that subjects the person to continuing review or oversight by the Department.^{8/} Since the prohibitions in § 605 serve "to contribute significantly to the appearance, as well as the substance, of public integrity,"^{9/} it would seem to be wise policy to avoid activities which arguably would be in violation of § 605.

If we can provide any further guidance please let us know.

Very truly yours,



JAMES E. TIERNEY
Attorney General

JET/d
Attachments

^{8/} Certain of the standard conditions of approval attached to Site Location orders in essence subject the applicant to continuing jurisdiction of the Department; see, e.g., Site Law standard conditions 1, 4 and 5. Somewhat similar language is contained in conditions attached to other Board licenses and permits. Any violation of a condition of a Board order subjects the violator to enforcement action pursuant to, inter alia, 38 M.R.S.A. § 347 (Board enforcement hearing) and § 348 (judicial enforcement).

^{9/} See 1975 Comment to § 605.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AUGUSTA, MAINE 04330

April 3, 1973

Mr. Leon Gorman, President
L.L. Bean, Inc.
Freeport, Maine 04032

Dear Mr. Gorman:

It was brought to my attention, recently, that L.L. Bean has proffered a marvelous opportunity to the personnel of most state agencies involved with Maine's ecology. I refer, of course, to your one-third discounts on purchases.

Since the Department of Environmental Protection, too, is an ecology agency, I wonder if the favor could be extended to our small staff? Currently, we are 48 full-time, 16 who are temporary under E.E.A., plus the ten members of the Board of Environmental Protection.

Like the fish and game, forestry, and parks departments the bulk of DEP's personnel spend much of their time in the field, both during working hours and for recreation. They, too, have need for the kinds of equipment for which L.L. Bean is famous.

Thank you, Mr. Gorman, for your kind consideration. If you need further information on which to base your decision, or if I can be of other assistance, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "David H. Leake".

David H. Leake, Chief
Division of Information & Education

DHL:rd



L.L.Bean

Hunting...
Fishing and Camping
Specialties

Freeport, Maine 04032

Tel. (207) 865-3111

April 9, 1973



Mr. David H. Leake, Chief
Div of Information & Education
Department of Environmental Protection
Augusta, Maine 04330

Dear Mr. Leake:

Mr. Gorman has brought your letter of April 3rd to the
writer's attention.

We wish to advise that L. L. Bean, Inc. will be pleased
to extend the same discount policy to the Department of
Environmental Protection as to the Fish & Game, Forestry
and Park Departments; that is, we will extend a discount
of 33 1/3% to full time permanent departmental employees,
effective May 1, 1973. The Department is to provide
L. L. Bean, Inc. with updated employee rosters at least
once a year, more often if needed.

The discount is for the employee's personal use. When
possible, the employee should have Department identification
when making a purchase. If this is not readily available,
we can then check against the roster.

Enclosed is a copy of a letter distributed to the Forestry
Department. We believe that it would be in order for you
to distribute a similar letter to your employees.

Very truly yours,

L. L. BEAN, INC.

W. E. Griffin
Vice President

WEG:M
Enc.



Pittston
File

2

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AUGUSTA, MAINE 04330

SPECIAL MEETING - MAY 2, 1973

MINUTES OF MEETING

A special meeting of the Board of Environmental Protection was held at the home of Mrs. Evelyn Jephson in Kennebunk Beach, Maine. The meeting was called to order at 3:25 P.M. with the following present:

BOARD: Chairman William Adams, Llewellyn Colomy, Donaldson Koenig, Lionel Ferland, Edgar Thomas, Evelyn Jephson, Orlando Delogu, Norman Gleason and Jean Childs

STAFF: Fred Pitman, Henry Warren, Steve Groves and Linda Moody

OTHERS: John Paterson, Lee Schepps and Steve Murray, Attorney General's Office

THE PITTSTON COMPANY

The Chairman informed the Board that he had been requested by some Board members to arrange a visit to a refinery so that the individual members could be familiar with the workings of such an installation. He noted that representatives of the Pittston Company had also expressed an interest in the Board visiting an appropriate refinery. The Board was told that representatives of the Pittston Company visited the refinery in Nova Scotia and found that it was not comparable to the refinery being proposed at Eastport. The Company had searched for similar refineries and found that the only modern refinery in the United States was on the west coast. They also indicated that the refinery there did not have facilities for super tankers. The Company pointed out that the only comparable refinery was in Milford Haven, England and that this refinery not only offered similar

would be present at the May 4 Board Meeting to enlighten the Board Members of the City of Eugene's contention that the primary treatment facility is sufficient and the secondary treatment facility as required by the Federal Water Pollution Control Act Amendments of 1972 would not improve water quality. A general discussion on the Board's position on this matter was held.

L. L. BEAN DISCOUNT

The Chairman informed the Board that the L. L. Bean Company had offered a 33 1/3% discount to everyone employed at the Department of Environmental Protection. The Chairman also told the Board that the Department has no dealings with this company and that no applications concerning this company will be received. After a general discussion, the Board by consensus stated that the discount could be accepted. The Chairman informed the Board that he would mail a list of employees and Board members to the company.

LEGISLATION

The Chairman informed the Board that the Bill concerning the Saco River was being heard before Legislative Committee today and that staff representation would be present to speak for the Department.

WATER QUALITY:

Planning reports concerning the Federal Water Pollution Control Act Amendments were given to the Board for their information and review. The Board was informed that a hearing has been scheduled for May 18 at the State Office Building to discuss these amendments.

STATE OF MAINE

Inter-Departmental Memorandum Date 28 November 1977

To All Full Time Permanent Employees

Dept. of Environmental Protection

From Dave Leake

Dept. _____

Subject L.L. Bean Discount Policy

L.L. Bean, Inc., Freeport, Maine extends a discount of 33 1/3 % off list to ALL FULL TIME PERMANENT EMPLOYEES (ONLY) of state agencies involved with the protection or enhancement of Maine's ecology.

The following provisions apply.

1. Only purchases for your personal use are authorized. Spouses and immediate family are not included.
2. Only purchases of L.L. Bean Catalog listings are authorized, with certain merchandise items excluded from discount or having special discount rates as follows:

NO DISCOUNT

Ammunition
Candy and Cigarettes
Sales and Sample Items, Special Priced Items
Randall Knives
Power Saws
Powered Ice Drills

DISCOUNT OF 10 %

Canoes
Rebuilding of Hunting Shoes
Woodburning Stoves
Barrel Stove Kits
Tents
Cross Country Ski Equipment
Cameras

3. All purchases must be made through the Department's Augusta Office. All purchases are to be accompanied by your personal check or a money order.
 - a) You should take proper discount when submitting your order to the Department office. Please make sure the address is to you personally and not to a third party.
 - b) Send your order to my office (Attention Janet Johnson). The Department will mail your order to L.L. Bean, Inc. Bean's will ship your order to you by Parcel Post or U.P.S.
4. A handling charge of \$1.25 is to be added to your order to defray shipping costs.
5. Discount purchases may not be made at the L.L. Bean, Inc. salesroom; however, you are welcome at the Freeport salesroom and may, of course, try on footwear and apparel to determine size or to examine merchandise for future discount purchase consideration.

This memorandum supersedes any other memorandum on L.L. Bean Discount Policy.

STATE OF MAINE

Inter-Departmental Memorandum Date 20 July 1978

To All Employees

Dept. _____

From Henry E. Warren, Commissioner *HEW*

Dept. _____

Subject Termination of the L.L. Bean's Discount

It is with great reluctance that I inform you I have directed the L.L. Bean, Inc., discount to DEP employees terminated immediately. I have done so because changes created by the new Maine Criminal Code have made this discount improper. These changes were discovered in the wake of an application filed recently by Bean's for approval of a project under the Site Law, and my action is being taken to protect both you and the company from possible violation of the new statute.

While my action today deals with the direct issue of discounts from Bean's the language of Section 605 of the Maine Criminal Code appears to be so broad as to encompass nearly any discount arrangement between state employees in regulatory agencies and persons in the private sector doing business within the state. It will, therefore, by my policy to refuse any discounts or gifts, or the offer of same, for myself or the department. I would advise each of you, as individual employees, to weigh any such offer in light of the new statutory language, a copy of which appears on the back of this memo.

administration. Compensation for past action implies a promise of similar compensation for future favor. Apart from this implied bribery for the future, when some "clients" of a public servant undertake to pay him for favors, others who deal with the same public servant are put under pressure to make similar contributions or risk subtle disfavor.

§ 605. Improper gifts to public servants

1. A person is guilty of improper gifts to public servants if:

A. Being a public servant he solicits, accepts or agrees to accept any pecuniary benefit from a person who he knows is or is likely to become subject to or interested in any matter or action pending before or contemplated by himself or the governmental body with which he is affiliated; or

B. He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph A.

2. Improper gifts to public servants is a Class E crime.

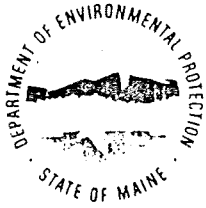
Comment—1975

This section supplements the bribery provisions which prohibit giving things to public servants with the wrong motive, by prohibiting such transactions when the thing given comes from the "wrong" source. It seems to be a warranted assumption that gifts from persons who have an interest in an official matter before the public servant would be so often made with the hope and intent of influencing him that it is appropriate to prohibit all such gifts generally. This prohibition also serves to contribute significantly to the appearance, as well as the substance, of public integrity.

§ 606. Improper compensation for services

1. A person is guilty of improper compensation for services if:

A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction or proposal as to which he knows that he has or is likely to have an official discretion to exercise; or



STATE OF MAINE

Department of Environmental Protection

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA
MAIL ADDRESS: STATE HOUSE, AUGUSTA 04333

Henry E. Warren
COMMISSIONER
289 2811

July 20, 1978

ADMINISTRATIVE SERVICES:
289 2691

BUREAUS:

AIR QUALITY CONTROL
289 2437

LAND QUALITY CONTROL
289 2111

WATER QUALITY CONTROL
289 2591
OIL POLLUTION CONTROL
289 2591

REGIONAL OFFICES:

31 CENTRAL STREET
BANGOR 04401
947 6746

415 CONGRESS STREET
PORTLAND 04101
775 6587

634 MAIN STREET
PRESQUE ISLE 04769
764 3737

OIL POLLUTION CONTROL
COMMERCIAL STREET
PORTLAND
773 6491

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CITIZENS' ENVIRONMENTAL
ASSISTANCE SERVICE
289 2691
(TOLL FREE) 1 800 452 1942

Mr. W.E. Griffin, Vice President
L.L. Bean, Inc.
Freeport, Maine 04032

Dear Mr. Griffin:

Attached is a copy of a memorandum delivered to employees of the Department of Environmental Protection today. The memo announces my decision to terminate acceptance by this department of the generous discount you have provided our people.

As you can see from reading the memo and copy of Section 605 of the new Criminal Code, your action in offering the discount as well as ours in accepting could be construed as violations. My action was intended to protect your company and my agency from such a possibility arising.

I regret having had to make this decision, as you may well imagine. Your discount policy has been a welcome "fringe benefit" to numerous state employees in these days of inflation. I know, too, that neither L.L. Bean nor the department entered into this arrangement several years ago with any thought of influencing decisions of the staff or Board, and that no such influence has occurred. The discount arrangement has been handled openly and has even been reported in the press, but it appears nevertheless to be in violation of the broad language of the new criminal code.

Thank you, once again, for having provided our people your discount in the past. It appears now, however, that I have no choice but the action I have taken, for both your sake and our own.

Sincerely yours,

Henry E. Warren, Commissioner

HEW:sal

Attachment

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

July 20, 1978

TO: Donald Alexander, Deputy Attorney General

FROM: Philip Ahrens, Assistant Attorney General

It has come to my attention that L.L. Bean Inc., which offers Department of Environmental Protection ("Department") employees a 1/3 discount on mail order purchases for personal use, has filed an application for Site Location approval of an expansion of its warehousing and manufacturing facilities. Because there appears to be a possible violation of a section of the Maine Criminal Code, it is important that you are aware of the situation and of my actions and recommendations to date.

BACKGROUND

On April 3, 1973, David Leake (Chief, Division of Information and Education for the Department) asked L.L. Bean Inc. to extend its discount policy to Department employees. A copy of that letter is attached. L.L. Bean Inc. extended the discount as requested. On May 2, 1973, The Board of Environmental Protection ("Board") was informed by its Chairman that everyone employed at the Department, including the Board, had been offered a 33 1/3% discount by L.L. Bean Inc. The minutes of that meeting, the first 2 pages of which are attached, indicate that "The Chairman also told the Board that the Department has no dealings with this company and that no applications concerning this company will be received". The Board then voted to accept the discount.

Three months later, on August 6, 1973 L.L. Bean Inc. applied to the Board for Site Location approval for a \$1.2 million, 100,000 square-foot expansion of its

warehouse. Site approval was granted September 12, 1973. The discount offered by L.L. Bean Inc. was in effect during the pendency of the application. There was no mention in the Board minutes of the existence of the discount.

On November 28, 1977 a memorandum from David Leake (D.E.P. Chief of Information and Education) regarding "L.L. Bean Discount Policy" was circulated throughout the Department. A copy is attached. The memorandum is a revision of earlier memoranda (May 3, 1973; November 24, 1975) on the same subject.

On June 16, 1978, L.L. Bean Inc. applied to the Board for Site Location approval for a proposed \$4.5 million expansion of warehousing and manufacturing facilities. The application is being reviewed by Department staff and is scheduled to be considered by the Board at its regularly scheduled July 26, 1978 meeting.

17-A M.R.S.A. §605, and the Comment which follows it, read as follows:

§605. Improper gifts to public servants

1. A person is guilty of improper gifts to public servants if:

A. Being a public servant he solicits, accepts or agrees to accept any pecuniary benefit from a person who he knows is or is likely to become subject to or interested in any matter or action pending before or contemplated by himself or the governmental body with which he is affiliated; or

B. He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph A.

2. Improper gifts to public servants is a Class E crime.

Comment - 1975

This section supplements the bribery provisions which prohibit giving things to public servants with the wrong motive, by prohibiting such transactions when the thing given comes from the "wrong" source. It seems to be a warranted

Memo to Donald Alexander
July 20, 1978
Page 3

assumption that gifts from persons who have an interest in an official matter before the public servant would be so often made with the hope and intent of influencing him that it is appropriate to prohibit all such gifts generally. This prohibition also serves to contribute significantly to the appearance, as well as the substance, of public integrity.

Section 605, which became effective on May 1, 1976, is essentially a new section in the Criminal Code. Its broad language had no statutory precedent in effect during L.L. Bean, Inc.'s 1973 Site Location application, but its effective date is well before that company's 1978 Site Location Application.

ACTION AND RECOMMENDATIONS

I have discussed with Commissioner Warren the broad language of Section 605 and the attendant problems with the discount policy as offered by L.L. Bean Inc. Commissioner Warren has terminated the discount policy effective immediately.

Although the thrust of this memorandum indicates there may have been one or more violations of Section 605, I do not believe that any prosecution is warranted. The discount policy was established before the effective date of Section 605; the policy was in writing and its existence was well-known¹; there is no indication that any improper influence either resulted or was intended; and a satisfactory remedy - cancellation of the discount policy - is readily available.

¹Apparently a very large majority of Department employees have taken advantage of the discount. Also, a half-page article on the discount policy appeared in the Maine Times on June 25, 1976.

Memo to Donald Alexander
July 20, 1978
Page 4

The scope of this memorandum is limited to the discount policy offered by L.L. Bean Inc. to the Department. I understand that a similar discount policy has been extended by L.L. Bean Inc. to certain other state agencies but I am not aware if L.L. Bean Inc., in the language of Section 605, "is or is likely to become subject to or interested in any matter pending before" those agencies.¹

Because of the broad language of a relatively recent statute and because the problem may not have been confronted previously, I suggest that all state employees be made aware of the scope of Section 605.

I would be happy to discuss this matter further at your convenience.

cc: Henry Warren, Commissioner, D.E.P.
Cab Howard, Assistant Attorney General
Richard Cohen, Deputy Attorney General
Steve Diamond, Assistant Attorney General

¹The Department of Inland Fisheries and Wildlife, whose employees are also extended the discount by L.L. Bean Inc., is an agency from which comments are solicited on all Site Location applications, including the pending application by L.L. Bean Inc. See 38 M.R.S.A. Section 481.



STATE OF MAINE

Department of Environmental Protection

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA
MAIL ADDRESS: STATE HOUSE, AUGUSTA 04333

Henry E. Warren
COMMISSIONER
289 2811

ADMINISTRATIVE SERVICES:
289 2691

October 3, 1979

BUREAUS:

AIR QUALITY CONTROL
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LAND QUALITY CONTROL
289 2111

WATER QUALITY CONTROL
289 2591

OIL POLLUTION CONTROL
289-2591

Mr. Daniel L. Lord, Jr.
L.L. Bean, Inc.
Box 250
Freeport, ME 04033

Re: Warehouse and Manufacturing Facilities, Freeport-DEP #59-0E94-050E0

REGIONAL OFFICES:

31 CENTRAL STREET
BANGOR 04401
947 6746

634 MAIN STREET
PRESQUE ISLE 04769
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AIR QUALITY CONTROL
17 COMMERCIAL STREET
PORTLAND
773 0196

LAND QUALITY CONTROL
17 COMMERCIAL STREET
PORTLAND
773 0196

Dear Mr. Lord:

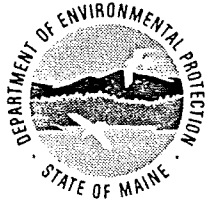
On September 28, 1979 I conducted a routine inspection of the project to determine compliance with the terms and conditions of Board Order dated July 26, 1978. I found that the project is in complete compliance at this time. I would like to compliment you on the excellent landscaping of the facilities and installation of erosion control measures. It is a relief to see some companies do the job right!

If you have questions concerning your project or my inspection, please call me at 773-0196.

Sincerely,

Edward A. Pinkham
Regional Director of Enforcement
BUREAU OF LAND QUALITY CONTROL

pj



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

STAFF ORDER

IN THE MATTER OF

L.L. BEAN INC. & HARRASEEKET ASSOCIATES) Site Location Order
Freeport, Maine, Cumberland County)
DISTRIBUTION CENTER & MANUFACTURING FACILITY))
#59-0894-05080 AMENDED 11/81) FINDINGS OF FACT AND ORDER

After reviewing the project file which includes the application with its supportive data, agency review comments, staff summary and other related materials on file with regard to the above noted project, under provisions of Title 38, M.R.S.A. Sec. 483, the Department finds the following facts:


1. Applicants propose expansion of a two story office building totalling 43,000 square feet, and expansion to the parking lot to accommodate 60 cars. Area will receive appropriate landscaping that was originally approved, plus a new earthen berm in front of building.
2. The applicant has provided adequate evidence of financial capacity and technical ability to meet air and water pollution control standards.
3. The applicant has made adequate provision for solid waste disposal, the control of offensive odors, and the securing and maintenance of sufficient and healthful water supplies.
4. The applicant has made adequate provision for traffic movement of all types out of or into the development area.
5. 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 or natural resources in the municipality or in neighboring municipalities.
6. The proposed development will be built on soil types which are suitable to the nature of the undertaking.

THEREFORE, the Department APPROVES the amended application of L.L. BEAN & HARRASEEKET ASSOCIATION to expand the existing facility as outlined in item #1 above subject to the following terms and conditions.

1. The Standard Conditions of Approval, a copy attached.

DONE AND DATED AT AUGUSTA, MAINE, THIS 12TH DAY OF NOVEMBER, 1981.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
HENRY E. WARREN, Commissioner

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES....

S T A N D A R D C O N D I T I O N S

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.