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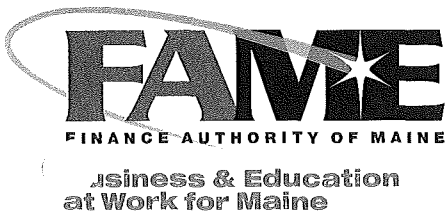
**Report to the Joint Standing Committee
on
Natural Resources**

Waste Motor Oil Disposal Site Remediation Program

January 15, 2008

Submitted by:

**Finance Authority of Maine
and
Maine Department of Environmental Protection**



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January 15, 2008

Hon. John L. Martin, Senate Chair
Hon. Theodore S. Koffman, House Chair
Joint Standing Committee on Natural Resources
100 State House Station
Augusta, ME 04333

Re: Waste Motor Oil Disposal Site Remediation Program

Dear Senator Martin, Representative Koffman, and Members of the Committee:

In accordance with Public Law 2007, chapter 464, section 10, this constitutes the first biennial joint report of the Finance Authority of Maine ("FAME") and the Maine Department of Environmental Protection ("DEP") regarding the Waste Motor Oil Disposal Site Remediation Program (the "program"). The report consists of FAME's summary of its activities to date and the DEP's report summarizing the status of remediation activities at the four targeted waste motor oil disposal sites in Plymouth, Casco, Ellsworth, and Presque Isle, Maine.

This program anticipates that FAME will issue up to \$30,000,000 in revenue obligation bonds with the State's moral obligation to pay the response costs of certain parties associated with the clean-up of four waste motor oil disposal sites. FAME also is authorized to issue up to \$5,000,000 in bonds to fund a capital reserve. The bond payments will be made with revenues collected from a premium on motor oil changes that became effective October 1, 2007 and which shall be deposited in the newly established Waste Motor Oil Revenue Fund. The bonds may be issued in tranches, or series, as statutory pre-conditions at each site are met. The status of each of the sites currently varies widely, as is further described in the DEP report. The Casco and Ellsworth sites have been remediated by DEP, but there has not yet been notification by DEP to any of the Potentially Responsible Parties (PRPs). (The program anticipates a PRP process in order to determine eligibility to have response costs paid with bond proceeds.) The Plymouth site, at which there is an active PRP group, is expected to be remediated in 2008, with the total amount of response costs to be known in early 2008. There has been no remediation activity to date at the Presque Isle site.

Since the legislation authorizing this program was passed in June 2007, FAME has undertaken the following activities towards implementation of the program:

- Issued a Request for Proposals for a Bond Underwriter. This process secured 10 proposals. FAME interviewed 4 responders and has narrowed that pool to 3 potential underwriters. FAME expects to select an underwriter in January 2008 or at such later date as all contingencies affecting a bond issuance are resolved and all conditions of the legislation are met.

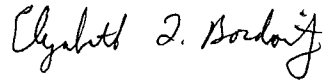
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- Considered whether this program would require promulgation of an agency rule. Thus far, FAME staff is of the opinion that the legislation sufficiently sets forth the mechanics of the program and that there are no other processes or procedures which should be set forth in rule. As a result, FAME has no immediate plans to undertake rulemaking, but will reconsider as necessary.
- Met and worked with representatives of DEP and the Plymouth PRP group to understand the status of the various sites and to explore expectations and timelines. FAME also has worked with representatives of DEP, Maine Revenue Services (“MRS”), and the Maine Auto Dealers Association to implement and assure industry collection of the premium.
- Monitored proposed legislation affecting the program. FAME is aware that there are two pieces of legislation to be taken up in the Second Regular Session of the 123rd Legislature. One seeks to clarify specific provisions of the program and the other seeks outright repeal of the premium. FAME is concerned that the bond market will view any current legislation seeking to amend the program unfavorably, even if it is not substantial, since it creates the possibility for further, unanticipated amendment. FAME is fairly certain that it will be unable to issue bonds while there is an attempt to repeal the premium pending. FAME expects to monitor the legislation closely.
- Communicated with MRS about collection of the premium. MRS reports that revenues collected in October 2007 were \$120,700 and revenues collected in November 2007 were \$117,835. (December, 2007 revenues are not yet available.) The October revenues were further reduced by a one-time \$11,000 payment to MRS for its administrative costs, as anticipated in the legislation. While it was not unexpected that early revenues might fall short of expectation pending fuller understanding and compliance, FAME is concerned that the amount collected thus far is approximately half of what had been projected to be collected on a monthly basis to support a bond issuance of up to \$30,000,000 (and \$5,000,000 for capital reserve). FAME will continue to monitor the collections monthly and may have to reconsider the amount of any bond issuance if this trend continues. FAME also awaits passage of the supplemental FY 08-09 budget in the Second Session in order to access the premium revenues collected and to be deposited in the Waste Motor Oil Revenue Fund.
- Trained staff to handle inquiries from parties potentially eligible to have their response costs paid through the program, as well as current and potential borrowers under FAME’s associated Plymouth Waste Oil Clean Up Loan Program. Although both programs relate to payment for clean up of the Plymouth site in particular, there are separate eligibility criteria. Inquiries to date have centered around the effect of the proposed bond issuance on the loan program, eligibility for both programs, and timing.

In 2008, FAME expects to continue working toward implementation of the program and issuance of the bonds as all contingencies allow. Please let me know if the Committee requires further information.

Respectfully submitted,



Elizabeth L. Bordowitz
Acting Chief Executive Officer and General Counsel



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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COMMISSIONER

January 15, 2008

Hon. John L. Martin, Senate Chair
Hon. Theodore S. Koffman, House Chair
Joint Standing Committee on Natural Resources
100 State House Station
Augusta, ME 04333

Re: Waste Motor Oil Disposal Site Remediation Program

Dear Senator Martin, Representative Koffman, and Members of the Committee:

This letter provides the status report required by Public Law 2007, chapter 464, section 10. Since An Act To Assist in the Cleanup of Waste Motor Oil Disposal Sites ("Act") became effective, the Maine Department of Environmental Protection ("DEP") has been working with the Finance Authority of Maine ("FAME") to develop a practical administrative process to distribute funds to eligible parties for response costs incurred for the four Portland Bangor Waste Oil Services ("PBWO") waste disposal sites. This report is presented and should be considered in conjunction with the accompanying FAME report dated January 15, 2008.

Background

The attached Figure 1 provides basic information regarding the PBWO Sites. The PBWO site in Wells, Maine is included for reference value as it is not included in the statutory program.

Current Status by Site

Plymouth: PBWO/Hows Corner Superfund Site

The Potentially Responsible Parties (PRPs) have been identified, there is a long-standing active PRP Group, there is an Executive Council to represent and negotiate for the PRP Group, the remedy has been identified (though not implemented), and the majority of the costs are known.

A consent decree is being negotiated among the PRPs, the federal government (Environmental Protection Agency and the Department of Justice), and the State (DEP and the Office of the Attorney General) which will finalize the costs and other settlement terms. It is anticipated that the consent decree will be finalized by the parties in the spring of 2008. Once finalized by the parties, it goes to federal court for approval. After discussions with the Plymouth PRP Group's Executive Council, the procedure as outlined in the statute will work for the PBWO/Hows Corner Superfund Site.

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Plymouth site: Activities completed to date or underway

- The PRP Group prepared and sent out mailings to the general PRP audience explaining the Waste Motor Oil Disposal Site Program (“Program”) and how to participate. Included in the mailing was a questionnaire which the PRP was asked to fill out to determine eligibility to participate in the Program.
- The returned questionnaires were reviewed by the PRP Group to determine eligibility.
- PRP Group mailed eligibility “statements” and certification to PRPs for signing, as necessary and applicable.
- PRP Group finalizes list of eligible parties.
- The PRP Group contracted with a consultant to conduct a Natural Resources Damage Assessment (NRDA). This study will assess the damage to natural resources at the site and will offer, as appropriate, measures to be taken as compensation for the injury to or loss of any natural resource. A NRDA settlement must be agreed upon before the consent decree is finalized. Costs incurred for the NRDA study, for the implementation of required measures, and by the State to review this study will be included as allowable response costs (10 MRSA §963-A, sub-§47-B).

Plymouth site: Future Activities

- FAME establishes a registry “of all responsible parties who qualify to have their share of response costs paid pursuant to this subchapter.”
- FAME publishes the registry of names two times, seven days apart, simultaneously in the weekend edition of several newspapers.
- Determine natural resources damage costs.
- FAME issues a Certificate of Determination setting forth: (1) total “response costs paid or to be paid” with respect to the site, (2) the “eligible response costs” to be paid from the proceeds of the bond sales, and (3) the proceeds of the bond sale to be paid to or on behalf of responsible parties.
- 30 day appeal period for reconsideration petition by any responsible party to DEP on eligibility status.
- Right to appeal DEP decision on eligibility under Public Law 2007, chapter 464 to Superior Court. Superior Court decides within 45 days of the date of filing the appeal.

Casco: PBWO Site /Maine Uncontrolled Hazardous Substance Site

The PRPs and their respective allocations (gallons of wastes they are responsible for) have been identified by TechLaw (a consultant hired by DEP). Response actions were undertaken at the site by DEP in 2003 & 2004 to remove the source materials. Groundwater migrating from the site is contaminated with wastes from the site, but there are no known receptors. DEP has no plans to conduct further response work at this site other than to monitor the level of contaminants in the groundwater. A NRDA has not been performed. The PRPs have not been notified.

Ellsworth: PBWO Site /Maine Uncontrolled Hazardous Substance Site

The PRPs and their respective allocations (gallons of wastes they are responsible for) have been identified by TechLaw (a consultant hired by DEP). Response actions were undertaken at the Site by DEP in 2003 to remove the source materials. Groundwater migrating from the site is contaminated with wastes from the site. There are known receptors, however, the concentrations of contaminants have been low and stable for several years. Affected residential groundwater is being treated with point-of-entry treatment systems (POETS). A nearby vocational training center has a water supply which is impacted with the same contaminants as those found in the groundwater at the site. This water is also being treated with a POETS. DEP has no plans to conduct further response work at this site or the vocational center other than to maintain the existing treatment systems and monitor the level of contaminants in the site groundwater. An NRDA has not been performed. The PRPs have not been notified.

Casco and Ellsworth sites: Activities completed to date or underway

- DEP met with FAME to discuss how to implement the Act at this site.
- DEP derived a list of PRPs and their respective allocation from the database prepared by TechLaw.
- DEP is working to locate addresses for the PRPs identified in the database.
- DEP is preparing a Notice of Potential Liability and a Demand for Payment to be sent to the PRPs. Included with this will be an explanation of the FAME Waste Motor Oil Program. PRPs interested in voluntary participation will be asked to notify DEP of their interest. Non-eligible parties, such as the federal government, will be informed of their status at the outset.

Casco and Ellsworth sites: Future Activities

- DEP follows-up the Notice Letters by sending a packet to those that indicate a willingness to participate in cost recovery. Each PRP packet will include a copy of the Act, instructions for participation, a copy of the designation, a draft agreement, an eligibility questionnaire for the FAME Waste Motor Oil Fund, and a schedule for proceeding.
- DEP will encourage the formation of a PRP Group to represent the PRPs. DEP feels it is in the interest of the PRPs to have their own representatives participate in any negotiations and make eligibility determinations on behalf of the group.
- DEP will negotiate a settlement with the PRP Group or with individual PRPs.

Presque Isle: PBWO Site /Maine Uncontrolled Hazardous Substance Site

This site came to the attention of DEP in 2003. A preliminary assessment indicated there is possible contamination at the site. Further investigation has not been conducted due to a lack of funding. There is little known about this site.

Summary

The Plymouth PBWO/Hows Corner Superfund Site is the most advanced in terms of educating PRPs about the Fund and creating a list of eligible PRPs. Negotiations on the terms of a consent decree to conduct the Remedial Design/Remedial Action among the federal government, the State, and the PRPs are on-going. DEP anticipates that until the consent decree is finalized, which will take several months, there will be no disbursement of funds.

Efforts are on-going with the PBWO Casco and PBWO Ellsworth sites to identify the eligible parties. Lists of PRPs and their respective allocation (or volume of contribution) have been prepared from the TechLaw database. DEP is in the process of locating addresses for these PRPs. DEP intends to send out Notice of Potential Liability letters to PRPs during the first part of 2008.

Until funds are available, there is no plan to perform further investigation and characterization of the Presque Isle PBWO Site.

Respectfully Submitted,



Mark Hyland
Director, Bureau of Remediation & Waste Management

FIGURE 1 - PBWO SITES - STATUS OF RESPONSE ACTIONS AND PRP INVOLVEMENT AS OF JANUARY 15, 2008

Site	No. of PRPs*	Total Volume	Stage of Clean-Up	PRP Status	PRP Group	Executive Committee	Response Costs		
							Past	Future	NRD
PBWO Presque Isle	Unknown	Unknown	Initial assessment conducted	None identified (former owner & operator is deceased)	None	None	Minimal to date	Not Estimated	Not Known
PBWO Casco	194	96,171	O&M/Mon	PRPs ID'ed by TechLaw to DEP; but not notified	None	None	Known	Estimated	Not Known
PBWO Ellsworth	223	95,558	O&M/Mon	PRPs ID'ed by TechLaw to DEP; but not notified	None	None	Known	Estimated	Not Known
PBWO Plymouth (aka Hows Corner)	517	224,537	Remedial Design Remedial Action	PRPs Notified	Formed & Active	Formed & Active	Known, under negotiation	Known, under negotiation	Being actively assessed
PBWO, Wells	2990	3,929,654	O&M/Mon	Case Settled; TRC assumed Responsibility for PRPs	Disbanded	Disbanded	Known & Settled	Known & Settled	Not assessed; no funds available

* these figures were taken from tables prepared in 2000