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Report to the Joint Standing Committee  
On Natural Resources

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**BOARD OF ENVIRONMENTAL PROTECTION**

Summary of Activities Calendar Year 2003

Respectfully Submitted by: Richard E. Wardwell, Chair



**REPORT TO THE JOINT STANDING COMMITTEE ON NATURAL RESOURCES  
SUMMARY OF ACTIVITIES – 2003**

**Table of Contents**

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<b>I.</b>	<b>Introduction</b>	-----	Page 1
<b>II.</b>	<b>Membership</b>	-----	Page 1
<b>III.</b>	<b>Summary of Matters</b>		
	A. Rulemaking	-----	Page 2
	B. Major Applications and Other Licensing Matters	-----	Page 4
	C. Appeals of Commissioner Decisions	-----	Page 5
	D. Enforcement Actions	-----	Page 6
<b>IV.</b>	<b>Issues for Consideration</b>		
	- Cumulative Impact Standard	-----	Page 6
	- Scenic and Aesthetic Impact of Proposed Projects	-----	Page 7
	- Management of Solid Waste	-----	Page 7
<b>V.</b>	<b>Board Process and Outreach</b>		
	- Administrative Rules Update	-----	Page 8
	- Guide to Statutory Responsibilities & Associated Procedures		Page 8
	- Site Visits	-----	Page 8
	- Informational Workshops	-----	Page 8
	- Web Page	-----	Page 8
<b>IV.</b>	<b>Closing</b>	-----	Page 9

Attachments:

- > List of Board Members
- > 2003 BEP Agendas



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

### **Summary of Activities for the Year 2003**

#### **I. Introduction**

Title 38 MRSA section 341-D, 7 requires the Board of Environmental Protection to report to the Joint Standing Committee on Natural Resources by January 15 of the first regular session of each Legislature on the "effectiveness of the environmental laws of the State and any recommendations for amending those laws or the laws governing the board." While a report is not due this session of the Legislature, the Board wishes to take this opportunity to provide you with a brief update on our activities.

#### **II. Membership**

There were several changes in Board membership in 2003. In June both John Tewhey and John Marsh completed their second terms and were not eligible for reappointment. Mr. Marsh was a very active member during his tenure on the Board, rarely missing meetings and preparing well for each session. Having the same traits as Mr. Marsh, Mr. Tewhey also served as Chair for three years. In addition, Melford Pelletier of Wallagrass completed his first term in September 2003. Given other commitments and the challenges of commuting to Augusta from Aroostook County, Mr. Pelletier decided not to seek a second term on the Board. Board members believe that it is important to have a member from northern Maine and are hopeful that an individual who can match Mr. Pelletier's hard work and dedication will be appointed to the Board in early 2004.

##### Appointments

Matthew Scott of Belgrade was appointed to the Board in June 2003 by Governor Baldacci to fill the seat vacated by John Marsh. Mr. Scott is an aquatic biologist with degrees in Wildlife Management, Fishery Science and Public Administration. Mr. Scott has extensive experience in Maine State Government, including service as Deputy Commissioner for the Department of Inland Fisheries and Wildlife. Mr. Scott is retired from Maine State Government and currently provides pro bono professional consulting services for non-profit organizations in Maine.

## Report to the Joint Standing Committee on Natural Resources

Nancy Anderson of Falmouth was appointed to the Board in October 2003 by Governor Baldacci to fill the seat vacated by John Tewhey. Ms. Anderson has a law degree from Harvard University and has been involved in natural resource protection policy issues since 1982. Ms. Anderson is currently an organizer and leader of weekend retreats in nature, and is actively involved with various non-profit organizations in the Greater Portland area.

In addition, Virginia Plummer of Turner and Richard Wardwell of Orono were each appointed to a second term on the Board in October. Richard Wardwell was appointed Chair by Governor King in December 2002.

### III. Summary of Matters before the Board

The Board's statutory responsibilities are established in 38 M.R.S.A. section 341-B. These responsibilities include rulemaking, decisions on selected permit applications, review (appeals) of Commissioner licensing decisions, review of enforcement actions, and making recommendations to the Legislature for changes to law. This section summarizes the major actions of the Board in 2003. Issues for further consideration appear in Section IV below.

#### A. Rulemaking

During 2003, the Board initiated thirteen rulemaking procedures. Of these, six rules have been adopted, one provisionally adopted, and six are still pending. These rulemaking initiatives are summarized below.

- Chapter 2 Rules Concerning the Processing of Applications (repeal and replace): to clarify and update the rules. The previous substantive amendments to this rule were made in 1994. The rule was reorganized for clarity, procedures were modified to facilitate more timely processing of appeals, and provisions for alternative dispute resolution and electronic filing of certain documents were added. A public hearing was held on the draft rule on November 7, 2002. The rule was adopted in March 2003.
- Chapter 101 Visible Emissions (repeal and replace): to modify provisions governing opacity limits for fuel burning sources, recovery boilers, general process sources and fugitive emission sources. The rule was posted for additional public comment in December 2002. The rule was adopted in April 2003.
- Chapter 124 Total Reduced Sulfur Control from Kraft Pulp Mills Regulation (amendment): to align the brownstock washer control compliance date with the 2007 federal pulp and paper Maximum Achievable Control Technology (MACT) requirement deadline. The proposed amendment gives affected facilities an additional two years to comply. The proposed amendments were posted to public hearing in December 2003. The hearing is scheduled for January 15, 2004.

## Report to the Joint Standing Committee on Natural Resources

- Chapter 127 New Motor Vehicle Emission Standards Regulation (citizen petition for amendment): This rulemaking is the result of a citizen petition pursuant to 5 M.R.S.A. section 8055. The petition seeks to amend Chapter 127 to allow the sale of federally-compliant diesel-powered passenger cars that do not meet the California standard that is incorporated into Department rules. The proposed rule was posted to hearing in December 2003. The hearing is scheduled for January 15, 2004.
- Chapter 137 Emission Statements (amendment): to incorporate reporting requirements for ammonia and fine particulate matter, amend reporting thresholds for hazardous air pollutants, amend inventory reporting requirements to coincide with EPA's reporting requirements, and add reporting requirements for greenhouse gases. The proposed rule amendment was posted to hearing in December 2003. The hearing is scheduled for February 5, 2004.
- Chapter 153 Mobile Equipment Refinishing and Repair Regulation (new rule): The proposed rule would limit emissions of volatile organic compounds (VOC) from mobile equipment refinishing and repair facilities by limiting the VOC content of coatings, requiring the use of high efficiency coating application systems, and establishing work practice standards. A public hearing was held on November 6, 2003. Adoption is anticipated in early 2004.
- Chapter 155 Portable Fuel Container Spillage Control Regulation (new rule): This rule limits emissions of volatile organic compounds by requiring new portable fuel containers to meet performance standards for spill-proof systems. A public hearing was held on February 20, 2003. The rule was adopted on June 5, 2003.
- Chapter 315 Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses (new rule): This rule establishes a process for evaluating impacts to existing scenic and aesthetic uses resulting from activities in, on, over or adjacent to protected natural resources subject to the Natural Resources Protection Act. A public hearing was held on March 20, 2003. The rule was adopted on June 5, 2003.
- Chapter 355 Coastal Sand Dune Rules (repeal and replace): to clarify a number of provisions of the rule, amend standards governing construction in frontal dunes and unstable back dunes, and address the issue of unconstitutional takings. After an initial hearing in August of 2002, the draft rule was substantially revised and a new hearing was held on March 6, 2003. The rule was provisionally adopted by the Board on June 19, 2003. Final Board action on the rule will occur following Legislative review of the rule in 2004.



## Report to the Joint Standing Committee on Natural Resources

- Chapter 425 Asbestos Management Rules (amendment): This rule was substantially modified in 2002. The majority of proposed amendments are minor and intended to clarify certain provisions in the rule. Two significant amendments include clarification that only DEP licensed consultants can conduct final visual evaluations and air clearance monitoring, and a provision to allow an alternative form of containment during asbestos abatement activities. The proposed amendments were posted to public comment in December 2003. Adoption is anticipated in early 2004.
- Chapter 579 Classification Attainment Evaluation Using Biological Criteria for Rivers and Streams (new rule): This rule establishes criteria to quantify the aquatic life standards for Classes AA, A, B and C rivers and streams. A public hearing was held on March 6, 2003. The rule was adopted on June 5, 2003.
- Chapter 691 Underground Oil Storage Facilities (amendment): to incorporate updated national and industry pollution prevention standards, incorporate changes in statute, add requirements for overfill protection at bulk plant loading racks, and add requirements for minimizing oil discharges from product dispensers and gas pumps. A public hearing was held on October 2, 2003. Adoption is anticipated in early 2004.
- Chapter 870 Mercury-Added Products (amendment): to incorporate statutory changes to the definition of mercury-added products and statutory requirements for the labeling of motor vehicles, and to make other changes to implement and clarify various provisions of law. Adopted January 2003.

### **B. Major Applications and Other Licensing Matters**

Title 38 section 341-D, subsection 2 provides that: "The board shall decide each application for approval of permits and licenses that in its judgment:

- A. Involves a policy, rule or law that the board has not previously interpreted;
- B. Involves important policy questions that the board has not resolved;
- C. Involves important policy questions or interpretations of a rule or law that require reexamination; or
- D. Have generated substantial public interest."

An application of substantial public interest is further defined in rule as a project which has "the potential to affect a broad geographic area or a natural resource of statewide significance, or has generated more than local interest" [06-096 CMR Chapter 2]. In addition, statute requires that the Board decide some applications.

## Report to the Joint Standing Committee on Natural Resources

Major applications before the Board in 2003 included:

- Widewaters Stillwater Company, LLC: Application for a retail development project in Bangor adjacent to the Penjajawoc Marsh. The Board held a public hearing on the application in 2002. The Board issued an order in May 2003 denying the application.
- Finfish Aquaculture General Permit: The Board held a public hearing on the proposed General Permit in February 2003; and issued the permit in June 2003. The General Permit establishes siting, operating and reporting requirements for Atlantic salmon aquaculture facilities in Maine's coastal waters.
- China Lake Water Level: The Board held a public hearing in August 2003 on a citizen petition to change the water level management regime for China Lake. A draft order has been circulated to the parties for review and comment. A final decision is expected in early 2004.
- Maine Department of Inland Fisheries and Wildlife application for a Public Boat Ramp at Mere Point, Brunswick: In response to multiple citizen requests, the Board assumed jurisdiction over this application in September 2003. Processing of the application is on hold at the request of the applicant. A public hearing will likely occur in late summer or fall 2004.

Other licensing proceedings included:

- GTE Operations Support, Inc. and Control Devices Inc. Post Closure Hazardous Waste Facilities License for Standish facility. Approved June 2003.

### C. Appeals of Commissioner Decisions

The Board heard thirteen appeals of Commissioner decisions:

- Four were appeals of Natural Resources Protection Act (NRPA) permits,
- Two were appeals of Site Location of Development permits,
- One was an appeal of a NRPA and Site permit,
- Two pertained to conditional permits for overboard discharges,
- One was an appeal of a water quality certification for hydropower projects,
- One challenged the issuance of a storm water permit,
- One pertained to denial of an asbestos contractor license, and
- One pertained to a property tax exemption for pollution prevention equipment at a paper mill.

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

The Commissioner's decision was affirmed, affirmed with minor modification, or partially affirmed in ten of the thirteen appeals. The Board reversed the Commissioner's decision in two instances: (1) the Board granted the appeal and denied a NRPA permit for construction of a house within the 75 foot stream buffer finding, in part, that the applicant had not demonstrated that there was no practicable alternative, and (2) the Board granted an appeal and granted a Site Law permit for construction of a permanent pier at Great Diamond Island. In the matter of the property tax exemption for pollution control equipment, the Board accepted a negotiated settlement between the town and the company seeking the certification and tax exemption. Some of the significant issues raised by these appeals are discussed in Section IV below.

### **D. Enforcement Actions**

During 2003, the Board approved 98 Administrative Consent Agreements and/or Enforcement Orders. These enforcement actions covered a range of issues including violations of the following:

- Performance Standards for Excavations (gravel mining) (15)
- Performance Standards for Quarries (1)
- Air Emission standards and license conditions (5)
- Gasoline Dispensing Facilities vapor control rule, Chapter 118 (3)
- Asbestos Management Rules (8)
- Hazardous Waste Management Rules (5)
- Maine Toxics Use and Hazardous Waste Reduction Law (4)
- Solid Waste Management Rules (2)
- Solid Waste rules governing sludge utilization (2)
- Oil Discharge Prevention statutes and rules (1)
- Site Location of Development Law (2)
- Natural Resources Protection Act (12)
- Protection and Improvement of Waters Act (5)
- Natural Resources Protection Act, Erosion and Sedimentation Control Law, Protection and Improvement of Waters Act (29)
- Natural Resources Protection Act, Erosion and Sedimentation Control Law, Protection and Improvement of Waters Act, and Storm Water Management Law (2)
- Storm Water Management Law and Erosion and Sedimentation Control Law (2).

### **IV. Issues for Consideration**

As discussed above, the Board considers a significant number of applications and proposed rules each year. While each project or rule presents important issues for resolution, the Board would like to bring the following matters to your attention.

## Report to the Joint Standing Committee on Natural Resources

### Cumulative Impact Standard

In each of our last three reports to the Legislature, we have highlighted the challenges associated with assessing cumulative impact under the Natural Resources Protection Act and associated rules as well as the rules implementing the Site Location of Development Act. We note that the Board has had a decision remanded by the Maine Supreme Judicial Court in part because of the manner in which the Board assessed cumulative impact to natural resources in that case. This past year, the Legislature passed a resolve directing the Department to convene a working group to design a method for considering cumulative effects on protected natural resources. The staff has briefed the Board on its report to the Legislature, and we look forward to your response to the suggestions proposed by Department staff.

### Scenic and Aesthetic Impact of Proposed Projects

As noted in last year's report, both the Site Location of Development Law [38 M.R.S.A. section 484(3)] and the Natural Resources Protection Act [38 M.R.S.A. section 480-D, 1] contain provisions requiring an assessment of the scenic and aesthetic impact of a proposed project. These criteria have become increasingly significant as the Board sees more applications or appeals involving development of coastal shorefront property.

In response to this need, Department staff, in consultation with interested persons, developed a rule that was subsequently adopted by the Board in June of 2003. Chapter 315 Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses provides a mechanism for assessing scenic impacts under the Natural Resources Protection Act. The Board has yet to apply this new rule to an application over which the Board has assumed jurisdiction or a matter on appeal. If the rule proves successful, we intend to work with staff to develop a mechanism for assessing scenic and aesthetic impacts under the Site Location of Development Law.

### Management of Solid Waste

While the Board did not have a major solid waste application before it in 2003, the Board wishes to reiterate its concern that the State should take steps to further encourage and facilitate recycling. In 2002, the Board approved a 47.8 million dollar expansion of Waste Management's facility in Norridgewock. The expansion, which is now under construction, will provide an additional 4 million cubic yards of capacity; however, at projected disposal rates, the additional capacity will be exhausted in only 8.4 years. Given the environmental, economic and social costs associated with waste management, it is only prudent that we recycle where practicable and thereby reduce our increasing demand for disposal capacity. Additionally, while recognizing limitations imposed by the Commerce Clause of the U.S. Constitution, some Board members believe that we should explore mechanisms to ensure that out-of-state generators document their efforts to recycle and minimize waste transported to Maine for disposal.

**V. Board Process and Outreach**

As you are aware, the Legislature established the Board to provide "...informed, independent and timely decisions on the interpretation, administration and enforcement of the laws relating to environmental protection and to provide for credible, fair and responsible public participation in department decisions." [38 MRSA sec. 341-B] Board members are committed to fulfilling this mandate.

In 2003 the Board continued to take steps to increase accessibility to information about the Board, its processes and proceedings. These efforts included the following:

Administrative Rules Update: One need repeatedly cited by persons commenting on Board process has been the need to update the Department's administrative rules. Department staff, with input from the Assistant Attorneys General who support the Board and from the Executive Analyst, drafted extensive revisions to Chapter 2 in 2002, which were formally adopted by the Board in March 2003. These amendments clarify a number of procedural matters and should expedite the processing of appeals. As a next step, the Board intends to work with Department staff to update our rules that govern the conduct of public hearings.

Guide to Statutory Responsibilities and Associated Procedures: As a result of its discussions on Board process, members asked that staff develop a handbook or guide to the Board's responsibilities and procedures for use by Board members and the general public. This document is being finalized and a copy will be forwarded to you in the near future.

Site Visits: The Board continued its practice of conducting project specific, as well as informational, site visits. These visits serve to familiarize Board members with proposed development sites and/or provide general background information on issues before the Board.

Informational workshops: Department staff provide informational workshops at regularly scheduled Board meetings throughout the year for the benefit of Board members and any members of the public who wish to attend. Workshops in 2002 addressed: assessment of scenic impacts to protected natural resources, and procedures governing Board consideration of staff recommendations on pending applications.

Web-Page: The Board's Administrative Assistant continues to develop the web-page. Minutes of Board meetings are now available on the web-page. Additionally, in response to a Legislative request, we have added a table that summarizes the votes taken on regular agenda items. Feedback from the public indicates that the Board's web-page is utilized by many on a regular monthly basis. Work to enhance the web-page continues to be on-going as resources allow.

**VI. Closing**

As noted above, Board membership changed significantly in 2003 with three very dedicated members completing their terms, a new Chair assuming governance of the Board, the addition of two talented individuals, and the anticipated appointment of a tenth member. These changes highlight the dynamic nature of a citizen Board, where changes bring new talents and new perspectives to our consideration of the environmental issues before us. We take our responsibilities seriously and appreciate the opportunity we have to serve the people of Maine in this capacity. Thank you for this opportunity to update you on our work, and we welcome any comments you may have.

**Attachments:**

- List of Board Members
- Meeting Agendas



# Appendix A

2003 Board Agenda (January – December)





**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.

January 2, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (09:15 A.M.)**

- 007 1. BEP MINUTES, November 7, 2002
- 011 2. TOWN OF MOUNT VERNON, Mount Vernon – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)

ADMINISTRATIVE CONSENT AGREEMENT (S):  
**Proposed wastewater discharge enforcement resolution open for public comment**  
**Pursuant to (38 M.R.S.A. §347-A(6)):**

DOVER & FOXCROFT WATER DISTRICT, Dover-Foxcroft (Staff Contact: Carolyn Bergeron 287-3901)  
*Tentatively scheduled for Board Action on February 6, 2003*

**III. REGULAR AGENDA ITEMS (09:30 A.M.)**

- 017 1. CHAPTER 870, LABELING OF MERCURY-ADDED PRODUCTS / AMENDMENTS (adoption\*)  
Staff: John James, Bureau of Remediation and Waste Management
- 031 2. CHAPTER 155, PORTABLE FUEL CONTAINER SPILLAGE CONTROL / NEW (post to public hearing)  
Staff: Jeff Crawford, Bureau of Air Quality
- 041 3. DRAFT GENERAL PERMIT FOR FINFISH AQUACULTURE (post to public hearing).  
Staff: Dennis Merrill, Bureau of Land and Water Quality

**WORK SESSION:**

- 1. CHAPTER 315, SCENIC RULES (new) / Informational Overview, Background  
Judy Gates, Bureau of Land and Water Quality

\*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.

January 16, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (09:15 A.M.)**

- 005 1. TOWN OF VINALHAVEN, Vinalhaven – Administrative Consent Agreement (BLWQ-Land)
- 009 2. TOWN OF MONROE, Monroe – Administrative Consent Agreement (BLWQ-Land)
- 013 3. IVAN ROBERTS, Greenwood – Administrative Consent Agreement (BLWQ-Land)

ADMINISTRATIVE CONSENT AGREEMENT (S):

**Proposed wastewater discharge enforcement resolution open for public comment**  
**Pursuant to (38 M.R.S.A. §347-A(6)):**

DOVER & FOXCROFT WATER DISTRICT, Dover-Foxcroft (Staff Contact: Carolyn Bergeron 287-3901)  
*Tentatively scheduled for Board Action on February 6, 2003*

**III. REGULAR AGENDA ITEMS (09:30 A.M.)**

- 017 1. WIDEWATER STILLWATER COMPANY, L.L.C., STILLWATER RETAIL DEVELOPMENT (approval)  
Staff: Stacie Beyer, Bureau of Land and Water Quality

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**PUBLIC HEARING:**

Board to Reconvene at 2:00 p.m. to conduct a public hearing:

CHAPTER 579, CLASSIFICATION ATTAINMENT EVALUATION USING BIOLOGICAL CRITERIA FOR RIVERS AND STREAMS / NEW



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 11:00 a.m.

February 6, 2003

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**I. DEPARTMENTAL (11:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (11:10 A.M.)**

- 005 1. BEP MINUTES, November 21, 2002 – approval
- 009 2. BEP MINUTES, December 5, 2002 – approval
- 013 3. BEP MINUTES, December 19, 2002 – approval
- 017 4. TOWN OF READFIELD, Readfield - Administrative Consent Agreement and Enforcement Order (BRWM)
- 021 5. DOVER & FOXCROFT WATER DISTRICT, Dover-Foxcroft Administrative Consent Agreement and Enforcement Order (BLWQ-Water)
- 027 6. JOHN HOLMES and BELFAST BOATYARD, Belfast – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 031 7. LAWRENCE A. BOND, JR., Dresden – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 035 8. EASTBROOK TIMER CO., INC., Hollis – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 039 9. THOMAS FOSTER, Belgrade – Administrative Consent Agreement (BLWQ-Land)
- 043 10. TOWN OF PARIS, Paris – Administrative Consent Agreement and Enforcement Order (BLWQ-Land).

**III. REGULAR AGENDA ITEMS (11:20 A.M.)**

- 047 1. CHAPTER 315, ASSESSING AND MITIGATING IMPACTS TO EXISTING SCENIC AND AESTHETIC ISSUES (post to public hearing)  
Staff: Judy Gates, Bureau of Land and Water Quality

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**PUBLIC HEARING:**

6:00 p.m. to conduct an evening public hearing session in the matter of:

Draft General Permit – Finfish Aquaculture  
*Machias Motor Inn – Conference Center, 26 E. Main Street, Machias*



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 1:00 p.m.

February 20, 2003

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**I. DEPARTMENTAL (1:00 P.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (1:10 P.M.)**

- 005 1. GIL'S SANITATION, INC., Presque Isle – Administrative Consent Agreement and Enforcement Order (BRWM)
- 011 2. LAMPRON ENERGY, INC., Gorham – Administrative Consent Agreement and Enforcement Order (BAQ)
- 017 3. LEO PURINGTON, West Gardiner – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 021 4. TIMOTHY CAMPBELL and TABATHA BESSEY, Vassalboro – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 025 5. FRED AUSTIN and WENDY AUSTIN, Sumner – Administrative Consent Agreement (BLWQ-Land)

<p><u>ADMINISTRATIVE CONSENT AGREEMENT(S):</u></p>
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<p>Proposed wastewater discharge enforcement resolution open for public comment Pursuant to (38 M.R.S.A. §347-A(6))</p>
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The Maine Wild Blueberry Company, Machias

(Staff Contact: Carolyn Bergeron 287-3901)

*Tentatively scheduled for Board Action on April 3, 2003*

**III. REGULAR AGENDA ITEMS**

- 1. None

**IV. WORKSHOP**

- 1. Deliberative Session Structure - Finfish Aquaculture (discussion)  
Staff Cynthia S. Bertocci, Executive Analyst

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**PUBLIC HEARING:**

1:30 p.m. to conduct a public hearing in the matter of:

Chapter 155, Port Chapter 155, Portable Fuel Container Spillage Control / New





**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
March 6, 2003

---

**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

- 005 1. WILLIAM J. DONAHUE, Scarborough - Administrative Consent Agreement (BLWQ - Land)
- 009 2. MARY ANNE OSGOOD, Limerick - Administrative Consent Agreement (BLWQ-Land)
- 013 3. JOHN HOLMES and BELFAST BOATYARD, Belfast - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 017 4. TOWN OF OAKFIELD, Oakfield - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 023 5. Leo Purington, West Gardiner - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 027 6. GTE OPERATIONS SUPPORT INC. and CONTROL DEVICES, INC / DRAFT POST CLOSURE HAZARDOUS WASTE FACILITY (approval / 45 day public comment period)  
Staff: Diana McKenzie, Bureau of Remediation and Waste Management)

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to (38 M.R.S.A. §347-A(6))

The Maine Wild Blueberry Company, Machias

(Staff Contact: Carolyn Bergeron 287-3901)

*Tentatively scheduled for Board Action on April 3, 2003*

**III. REGULAR AGENDA ITEMS (9:30 A.M.)**

- 095 1. CHAPTER 2, RULES CONCERNING THE PROCESSING OF APPLICATIONS AND OTHER ADMINISTRATIVE MATTERS / AMENDMENT (adoption\*)

Staff: Brooke E. Barnes, Office of the Commissioner

\*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman

- 131 2. MEAD TAX CERTIFICATION / TOWN OF MEXICO (Consent Order - Approval). Staff member: Jim Dusch, Office of the Commissioner

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**PUBLIC HEARING:**

1:30 p.m. to conduct a public hearing in the matter of:

Chapter 355, Coastal Sand Dune Regulation / Amendment



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
March 20, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

**III.**

- 005 1. ~~BEP MINUTES OF January 16, 2003 (approval)~~
- 009 2. BEP MINUTES OF February 6, 2003 (approval)
- 013 3. BEP MINUTES OF February 20, 2003 (approval)
- 017 4. FEYLER, KEITH and DEBRA, PEASE, SHALLON, AREY SHERRILL, AREY, LEE and AIKEN, PETER, Cushing – Administrative Consent Agreement (BLWQ - Land)
- 021 5. JACOBS EXCAVATING, INC., Dresden – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 025 6. MEAD CORPORATION, Oxford – Appeal Consent Order Ratification (Office of the Commissioner)

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to (38 M.R.S.A. §347-A(6))

The Maine Wild Blueberry Company, Machias (Staff Contact: Carolyn Bergeron 287-3901)  
*Tentatively scheduled for Board Action on April 3, 2003*

**III. REGULAR AGENDA ITEMS (9:30 A.M.)**

- 027 1. WIDEWATER STILLWATER RETAIL DEVELOPMENT (re-open public hearing / proposed for decision)



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 8:30 a.m.  
April 3, 2003

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**I. DEPARTMENTAL (8:30 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (8:45 A.M.)**

**III.**

- 005 1. BEP MINUTES OF March 6, 2003 (approval)
- 011 2. WORCESTER ENERGY COMPANY INC., Deblois – Administrative Consent Agreement (BAQ)
- 017 3. GENDRON & GENDRON, INC., Auburn – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 021 4. THE MAINE WILD BLUEBERRY COMPANY, Machias - Administrative Consent Agreement and Enforcement Order (BLWQ-Water)

**III. REGULAR AGENDA ITEMS (9:00 A.M.)**

- 027 1. DANIEL E. FARRINGTON, d/b/a AUGUSTA ASBESTOS ABATEMENT COMPANY (appeal / Department license denial). Staff: Carol Cifrino, Bureau of Remediation and Waste Management.
- 219 2. SMITH'S JUNKYARD SITE / DESIGNATION OF UNCONTROLLED HAZARDOUS SUBSTANCE SITE (evidentiary hearing to determine appeal). Staff: Jean Firth, Bureau of Remediation and Waste Management

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**PUBLIC HEARING:**

1:30 p.m. to conduct a public hearing in the matter of:  
Chapter 315, Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses / New

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**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 10:00 a.m.  
April 17, 2003

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**I. DEPARTMENTAL (10:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (10:15 A.M.)**

- 007 1. GATES FORMED-FIBRE PRODUCTS, INC., – Administrative Consent Agreement (BAQ)
- 011 2. DONAHUE, WILLIAM J., Scarborough – Administrative Consent Agreement (BLWQ-Land)
- 015 3. B & H ENTERPRISES, LLC, Sabattus - Administrative Consent Agreement and Enforcement Order (BLWQ-Water)
- 019 4. SPRINGFIELD WATER & SEWER COMMISSION, Springfield, MA - Administrative Consent Agreement and Enforcement Order (BRWM-Solid Waste)

**III. REGULAR AGENDA ITEMS (10:30 A.M.)**

- 025 1. CHAPTER 579: CLASSIFICATION ATTAINMENT EVALUATION USING BIOLOGICAL CRITERIA FOR RIVERS AND STREAMS (adoption\*) Staff: Susan Davies, Bureau of Land and Water Quality.
- 049 2. CHAPTER 101: VISIBLE EMISSION STANDARDS and CHAPTER 100, DEFINITIONS/AMENDMENT (adoption\*). Staff: Marc Cone, Bureau of Air Quality

\*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman.





**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
May 8, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

- 007 1. BEASLEY, PRUDENCE, Dresden – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 011 2. LOU SILVER, INC., Alton – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 015 3. MORSE, LESTER, Wiscasset - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 019 4. MASSELLI, ARLEEN, Farmington - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 025 5. CRAY, DANA, Garland - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 029 6. FLOOD, JOHN, Acton – Administrative Consent Agreement (BLWQ-Land)
- 033 7. W & S WOOD PRODUCTS, INC., Peru - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 037 8. BILL'S AUTO TRANSPORT, INC., Greene - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 041 9. FOX, JEFFREY, Westmanland - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 045 10. NORCROSS, RICHARD /d/b/a DICK'S AUTO BODY, Brownfield - Administrative Consent Agreement and Enforcement Order (BRWM)
- 055 11. ABATEMENT PROFESSIONALS CORP., So. Portland - Administrative Consent Agreement (BRWM)
- 061 12. AIR TESTING SERVICES, INC., Kittery - Administrative Consent Agreement (BRWM)
- 067 13. NORTHEAST TEST CONSULTANTS, So. Portland - Administrative Consent Agreement (BRWM)
- 073 14. A-BEST ABATEMENT, INC., Kittery – Administrative Consent Agreement (BRWM)

**III. REGULAR AGENDA ITEMS (9:30 A.M.)**

- 079 1. 2003 SMALL COMMUNITY GRANT PROGRAM PRIORITY LIST (approval) Staff: Richard Green, Bureau of Land and Water Quality

III. REGULAR AGENDA ITEMS / CONTINUED

- 155      2. PRECISION DESIGN GROUP PBR #31231 (appeal by Jenine Winslow and James McArthur) Staff: Michael Mullén, Bureau of Land and Water Quality
- 087      3. GTE OPERATIONS SUPPORT INC., AND CONTROL DEVICES, INC., POST CLOSURE HAZARDOUS WASTE FACILITY LICENSE (final approval) Staff: Stacy Ladner, Bureau of Remediation and Waste Management.
- 213      4. WIDEWATERS STILLWATER COMPANY, LLC (ratify decision) Staff: Stacie Beyer, Bureau of Land and Water Quality
5. CHINA LAKE WATER LEVEL (discussion of tentative schedule for public hearing process)  
Staff: Cynthia S. Bertocci, Board of Environmental Protection

**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
June 5, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

- 005 1. BEP MINUTES OF April 3, 2003 – approval
- 009 2. RICHARD MINGO CONSTRUCTION, INC., Crawford - Administrative Consent Agreement (BLWQ-Land)
- 013 3. KATHLEEN THORNTON, Waterboro - Administrative Consent Agreement (BLWQ-Land)
- 017 4. DANIEL J. PAQUETTE and KATHLEEN D. PAQUETTE, Acton - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 021 5. RUSSELL CHASSE, Biddeford – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 025 6. TOWN OF MONMOUTH, Monmouth - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 031 7. PETERSON DESIGN GROUP (draft appeal order – approval)  
Mike Mullen, Bureau of Land and Water Quality

**III. REGULAR AGENDA ITEMS (9:30 A.M.)**

- 037 1. DIAMOND COVE HOMEOWNERS ASSOCIATION (appeal of transfer license) Staff: Marybeth Richardson, Bureau of Land and Water Quality
- 181 2. GTE OPERATIONS SUPPORT INC AND CONTROL DEVICE INC., (Hazardous Waste Facility Post Closure License – approval) Staff: Stacy Ladner, Bureau of Remediation and Waste Management
- 235 4. CHAPTER 155, PORTABLE FUEL CONTAINER SPILLAGE CONTROL (adoption\*) Staff: Jeffrey Crawford, Bureau of Air Quality
- 297 5. CHAPTER 315, ASSESSING AND MITIGATING IMPACTS TO EXISTING SCENIC AND AESTHETIC USES (adoption\*) Staff: Judy Gates, Bureau of Land and Water Quality

III. REGULAR AGENDA TO CONTINUE AT 1:00 P.M.

- 333     6. HEMOND'S MOTOCROSS PARK, L.L.C. (appeal) and Administrative Consent Agreement and Enforcement Order (discussion/possible decision). Staff: LaMarr Cannon, Bureau of Land and Water Quality

**\*I At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chair.**

**BOARD OF ENVIRONMENTAL PROTECTION**  
Augusta Civic Center, Augusta Maine at 8:30 a.m.  
June 19, 2003

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**I. DEPARTMENTAL (8:30 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (8:45 A.M.)**

- 005 1. MSAD #53, WARSAW MIDDLE SCHOOL and TOWN OF PITTSFIELD - Pittefield - Administrative Consent Agreement (BRWM)
- 019 2. LYMAN-MORSE BOATBUILDING, INC., Thomaston - Administrative Consent Agreement and Enforcement Order (BRWM)
- 031 3. J & L ACQUISITIONS, INC., Winslow - Administrative Consent Agreement (BLWQ-Land)
- 035 4. PAULA ONGLEY - Waterboro - Administrative Consent Agreement (BLWQ-Land)
- 039 5. H.H.H., LLC., South Portland - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 043 6. DIAMOND COVE HOMEOWNERS ASSOCIATION / DRAFT BOARD ORDER (final approval). Marybeth Richardson, Bureau of Land and Water Quality
- 049 7. HEMOND'S MOTOCROSS PARK, L.L.C. / DRAFT BOARD ORDER (final approval). LaMarr Cannon, Bureau of Land and Water Quality.

**III. REGULAR AGENDA ITEMS (9:00 A.M.)**

- 053 1. CHINA LAKE / WATER LEVEL (petition to intervene / post to public hearing) Staff: Dana Murch, Bureau of Land and Water Quality
- 067 2. DRAFT GENERAL PERMIT / FINFISH AQUACULTURE (approval) Staff: Dennis Merrill, Bureau of Land and Water Quality

**BEP TO RECONVENE AT 2:00:**

- 129 3. CHAPTER 355, COASTAL SAND DUNES / AMENDMENTS (adoption\*) Staff: Linda Kokemuller, Bureau of Land and Water Quality

\* At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chair.



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:30 a.m.  
July 17, 2003

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**I. DEPARTMENTAL (9:30 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:45 A.M.)**

- 007 1. STEELSTONE INDUSTRIES, INC., Houlton – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
- 013 2. P. HUSSEY, INC., So. Berwick - Administrative Consent Agreement (BLWQ - Land)
- 017 3. BRIAN NELSON, Lincoln - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6))

Town of Baileyville, Wastewater Treatment Facility, Baileyville  
Northport Village Corp., Northport

(Staff: Phil Garwood 287-7695)  
(Staff: John Glowa 287-7683)

*Tentatively scheduled for Board Action on August 21, 2003*

**III. REGULAR AGENDA ITEMS (10:00 A.M.)**

- 021 1. CHINA LAKE / WATER LEVEL (post to public hearing) Staff: Dana Murch, Bureau of Land and Water Quality
- 023 2. YOURSAMINE, L.L.C. / Pier, Ramp and Float Construction Denial (appeal by applicant)  
Staff: Marybeth Richardson, Bureau of Land and Water Quality

**BEP TO RECONVENE AT 1:00:**

- 129 3. TOWN OF FORT KENT / Multi-Use Trail (appeal by Priscilla Staples) Staff: Robin Clukey, Bureau of Land and Water Quality





**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
August 7, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

- 005 1. ROBINHOOD MARINE CENTER, INC., Georgetown – Administrative Consent Agreement and Enforcement Order (OC)
- 009 2. WASHBURN & DOUGHTY ASSOC., INC., East Boothbay - Administrative Consent Agreement and Enforcement Order (OC)
- 013 3. THEODORE LOGAN & SON INC., Portland - Administrative Consent Agreement and Enforcement Order (OC)
- 017 4. EXIDE TECHNOLOGIES, INC., Hermon – Administrative Consent Agreement and Enforcement Order (OC)
- 021 5. INTERSTATE SEPTIC SYSTEMS, INC., Rockland, Thomaston – Administrative Consent Agreement and Enforcement Order (BRWM)
- 021a 6. TOWN OF FORT KENT / Multi-Use Trail (ratify draft Board order).

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6))

Town of Baileyville, Wastewater Treatment Facility, Baileyville (Staff: Phil Garwood 287-7695)  
Northport Village Corp., Northport (Staff: John Glowa 287-7683)

Tentatively scheduled for Board Action on August 21, 2003

Domtar Maine Corporation, Baileyville (Staff: Phil Garwood 287-7695)

Tentatively scheduled for Board Action on September 18, 2003

**III. REGULAR AGENDA ITEMS (9:30 A.M.)**

- 0029 1. YOURSAMINE, L.L.C. / Pier, Ramp and Float Construction (ratify appeal decision)  
Staff: Marybeth Richardson, Bureau of Land and Water Quality

**BEP TO CONDUCT A SITE VISIT: (ESTIMATED DEPARTURE TIME 10:00 A.M.)**

CHINA LAKE



**BOARD OF ENVIRONMENTAL PROTECTION**  
Augusta Civic Center, Augusta Maine at 8:30 a.m.  
August 21, 2003

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**I. DEPARTMENTAL**

- |                               |      |
|-------------------------------|------|
| A. Commissioner's Comments    | None |
| B. Chairman's Comments        | None |
| C. Executive Analyst Comments | None |
| D. Board Calendar             | None |
| E. Departmental Orders        | None |
| F. Executive Session          |      |

**II. CONSENT AGENDA ITEMS**

- |     |  |
|-----|--|
| 001 | 1. TOWN OF BAILEYVILLE / WASTEWATER TREATMENT FACILITY, Baileyville –<br>Administrative Consent Agreement and Enforcement Order (BLWQ-Water) |
| 007 | 2. NORTHPORT VILLAGE CORP., Northport - Administrative Consent Agreement and<br>Enforcement Order (BLWQ - Water)                             |

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6))

Domtar Maine Corporation, Baileyville

(Staff: Phil Garwood 287-7695)

Tentatively scheduled for Board Action on September 18, 2003

**III. REGULAR AGENDA ITEMS**

None

**BEP TO CONDUCT A PUBLIC HEARING**

CHINA LAKE



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
September 4, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

- 007 1. BEP MINUTES, January 16, 2003 (approval)
- 011 2. BEP MINUTES, March 20, 2003 (approval)
- 015 3. BEP MINUTES, April 17, 2003 (approval)
- 019 4. BEP MINUTES, May 8, 2003 (approval)
- 025 5. BEP MINUTES, June 5, 2003 (approval)
- 031 6. ANTHONY AREY, Warren – Administrative Consent Agreement (BLWQ-Land)
- 035 7. MARK MARINO and WAYNE E. JOHNSTON TRUCKING, Jefferson - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6))

Domtar Maine Corporation, Baileyville

(Staff: Phil Garwood 287-7695)

*Tentatively scheduled for Board Action on September 18, 2003*

**III. REGULAR AGENDA ITEMS (09:30 A.M.)**

- 039 1. CHAPTER 691, RULES FOR UNDERGROUND OIL STORAGE FACILITIES / AMENDMENTS (post to public hearing).  
Staff: George Seel, Bureau of Remediation and Waste Management
- 183 2. YOURSAMINE, L.L.C. / Pier, Ramp and Float Construction (appeal decision)  
Staff: Marybeth Richardson, Bureau of Land and Water Quality
- 191 3. DEPT OF INLAND FISHERIES & WILDLIFE / Merepoint Construction of Boat Ramp Facility (request for Board jurisdiction)  
Staff: Dawn Hallowell, Bureau of Land and Water Quality
- 225 4. MARGOT FREEMAN FAMILY TRUST / Pier Construction for Recreational Use (appeal of Department denial)  
Staff: Dawn Hallowell, Bureau of Land and Water Quality

**1:00 p.m. -- BOARD TO RECONVENE FOR THE REMINDER OF THE WORKING AGENDA**



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
September 18, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

- 007 1. BEP MINUTES, June 19, 2003 (approval)
- 013 2. BEP MINUTES, July 17, 2003 (approval)
- 017 3. DELMONT WOOD & SONS, INC., Presque Isle – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 023 4. PIERRE BEAULIEU, Saco – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 027 5. MAPLEHURST COMPANY, INC., Belgrade – Administrative Consent Agreement (BLWQ-Land)
- 031 6. DOMTAR MAINE CORPORATION, Baileyville – Administrative Consent Agreement and Enforcement Order (BLWQ-Water)
- 041 7. DOMTAR MAINE CORPORATION, Baileyville – Administrative Consent Agreement (BAQ)
- 045 8. JETPORT GAS & CONVENIENCE STORE, INC., South Portland - Administrative Consent Agreement and Enforcement Order (BAQ)
- 051 9. REGINALD GAGNE and BONENFANT CONSTRUCTION CORP., Augusta – Administrative Consent Agreement and Enforcement Order
- 057 10. MAINE ELECTRONICS, INC. and ROCKWELL COLLINS, INC. / POST CLOSURE LICENSE (approval / 45 day public comment period)  
Staff: Diana McKenzie, Bureau of Remediation and Waste Management

**III. REGULAR AGENDA ITEMS (09:30 A.M.)**

- 123 1. CHAPTER 153, MOBILE EQUIPMENT REPAIR AND REFINISHING / NEW (post to public hearing).  
Staff: Jeffrey S. Crawford, Bureau of Air Quality
- 131 2. TIM FLYNN / Dept. (appeal of DEP denial to construct building addition)  
Staff: Douglas Burdick, Bureau of Land and Water Quality
- 3. If Time Permits the Board will Conduct a Workshop -- (materials provided at meeting)
  - [1] Review of Procedures Governing Board Action on Staff Recommendations
  - [2] Board Guidelines for Conduct of MeetingsStaff: Cynthia Bertocci, BEP Executive Analyst





**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 9:00 a.m.  
October 2, 2003

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**I. DEPARTMENTAL (9:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (9:15 A.M.)**

- 005 1. BORALEX ATHENS ENERGY INC. and BORALEX FORT FAIRFIELD INC., Athens and Fort Fairfield – Administrative Consent Agreement and Enforcement Order (BRWM & BAQ)
- 033 2. WHITE CONSTRUCTION CO., INC., Rockland – Administrative Consent Agreement (BRWM)
- 039 3. ROSENDO LONGORIA d/b/a STATEWIDE ASBESTOS REMOVAL, Bangor – Administrative Consent Agreement (BRWM)
- 045 4. D.L. OVERLOCK EXCAVATION, Montville – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 049 5. ROSE MARIE BOLOGNA, Boothbay - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 053 6. DALE HENDERSON LOGGING, INC., Stueben - Administrative Consent Agreement (BLWQ-Land)

**III. REGULAR AGENDA ITEMS (09:30 A.M.)**

- 057 1. S.D. WARREN (appeal of Water Quality Certification Order / Presumpscot River Hydro Projects).  
Staff: Dana P. Murch, Bureau of Land and Water Quality

**BOARD TO RECONVENE AT 1:30 FOR THE FOLLOWING:**

- 2. Public Hearing: Chapter 691 Amendments to Rules for Underground Oil Storage Facilities
- 3. CHINA LAKE / WATER LEVEL (deliberative session)  
Staff: Dana P. Murch, Bureau of Land and Water Quality  
Cynthia S. Bertocci, BEP Executive Analyst



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 12:30 p.m.  
November 6, 2003

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**I. DEPARTMENTAL (12:30 P.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**II. CONSENT AGENDA ITEMS (12:45 P.M.)**

- 007 1. MINUTES BEP Meeting of January 16, 2003 (approval)
- 011 2. MINUTES BEP Meeting of September 4, 2003 (approval)
- 015 3. MINUTES BEP Meeting of September 18, 2003 (approval)
- 019 4. MINUTES BEP Meeting of October 2, 2003 (approval)
- 023 5. LEIGHTON EXCAVATING COMPANY, Waterboro - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 027 6. NANCY FIELD and BETHANY LAWRENCE, So. Portland - Administrative Consent Agreement (BLWQ-Land)
- 031 7. MICHAEL MINARDI and BARBARA MINARDI, Rome - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 035 8. STILLWATER REALTY, L.L.C., Bangor - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 039 9. FRANKLIN LIGHT PRESERVATION, INC., Friendship - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 043 10. GEORGE COUTURE, Bowdoin - Administrative Consent Agreement (BLWQ-Land)
- 047 11. KONRAD ULBRICH and ST. GEORGE MARINE CORPORATION, St. George - Administrative Consent Agreement

**III. REGULAR AGENDA ITEMS (1:00 P.M.)**

- 051 1. DEPT. OF INLAND FISHERIES & WILDLIFE / Merepoint Boat Ramp Construction Project (petitions to intervene).  
Staff: Dawn Hallowell, Bureau of Land and Water Quality
- 2. Public Hearing: Chapter 153 Mobile Equipment Repair and Refinishing / New
- 3. Mere Point Site Visit: No documentation provided



**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 10:30 a.m.  
November 20, 2003  
**REVISED**

**I. DEPARTMENTAL (10:30 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**ADMINISTRATIVE CONSENT AGREEMENT(S):**

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6)

City of Eastport, Eastport

(Staff: John Glowa 287-3901)

*Tentatively scheduled for Board Action on January 15, 2004*

**II. REGULAR AGENDA ITEMS (10:45 P.M.)**

- 007 1. CHINA LAKE / WATER LEVEL (decision)  
Staff: Dana Murch, Bureau of Land and Water Quality
- 037 2. ITEM REMOVED FROM CONSIDERATION PAGES 37 – 114 BLANK  
  
2003 LEGISLATIVE REPORT (discussion of time allows)

**THE BOARD WILL RECONVENE AT APPROXIMATELY 1:00 FOR CONSIDERATION OF THE REMAINDER OF THE AGENDA**

**III. CONSENT AGENDA ITEMS (1:00 P.M.)**

- 115 1. GEIGER BROS., Lewiston – Administrative Consent Agreement and Enforcement Order (BRWM)
- 125 2. DURATHERM WINDOW CORPORATION, Vassalboro Administrative Consent Agreement and Enforcement Order (BRWM)
- 137 3. LARRY G. SUKEFORTH, Washington – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
- 141 4. U.R. ILVONEN EARTHMOVING, INC., Cushing – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 147 5. ROBERT T. MCKIM, Shapleigh - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 151 6. SAFETY-KLEEN, Leeds / Hazardous Waste Storage Facility Transfer and Renewal

*Tabled Items from BEP meeting of November 6, 2003*

- 7. MICHAEL MINARDI and BARBARA MINARDI, Rome – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 8. FRANKLIN LIGHT PRESERVATION, INC., Friendship – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)

**IV. REGULAR AGENDA ITEMS (1:15 P.M.)**

- 219     1.   JAMES FAMILY TRUST (appeal of Department transfer and permit for reduced seasonal discharge of waste)  
         Staff: Michael Demarest, Bureau of Land and Water Quality
- 253     2.   ROBERT CRAGIN (appeal of Department's conditional permit for seasonal discharge of waste)  
         Staff: Michael Demarest, Bureau of Land and Water Quality

**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 09:00 a.m.  
December 4, 2003

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**I. DEPARTMENTAL (09:00 A.M.)**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6))

City of Eastport, Eastport (Staff: John Glowa 287-3901)  
*Tentatively scheduled for Board Action on January 15, 2004*

Eastern Maine Mussel Corporation, Hancock (Staff: John Glowa 287-3901)  
Town of Mt. Desert, Mt. Desert (Staff: Phil Garwood 287-7695)  
*Tentatively scheduled for Board Action on February 5, 2004*

**II. CONSENT AGENDA ITEMS (09:15 A.M.)**

- 005 1. HUHTAMAKI FOODSERVICE, INC., Waterville – Administrative Consent Agreement (BAQ)
- 009 2. AGA REALTY, LLC, Portland - Administrative Consent Agreement (BAQ)
- 013 3. MICHAEL KOOB, Rangely – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
- 017 4. HEMOND'S MOTO-X PARK, LLC, Minot – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 021 5. THOMAS DAVIS and CHARLES DAVIS, New Portland - Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
- 027 6. R.J. ENTERPRISES, INC., Bangor – Administrative Consent Agreement (BRWM)
- 033 7. A-QUALITY REMOVAL, INC., Springvale – Administrative Consent Agreement (BRWM)

**II. REGULAR AGENDA ITEMS (10:45 A.M.)**

- 039 1. PINNACLE PARTNERS OF SABLE OAKES (appeal by Sablegolf, LLC and Sablots, LLC)  
Staff: William Bullard, Bureau of Land and Water Quality
- 169 2. CHAPTER 425, ASBESTON MANAGEMENT REGULATION / AMENDMENT (post to public comment)  
Staff: Ed Antz, Bureau of Remediation and Waste Management



**II. REGULAR AGENDA ITEMS CONTINUED (1:30 P.M.)**

- 243      3.    CHAPTER 127, NEW MOTOR VEHICLE EMISSION STANDARDS REGULATION /  
              AMENDMENTS (post to public hearing)  
              Staff: Ron Severance, Bureau of Air Quality
- 263      4.    CHAPTER 124, TOTAL REDUCED SULFUR CONTROL FROM KRAFT PULP MILLS /  
              AMENDMENTS (post to public hearing)  
              Staff: Jeffrey S. Crawford, Bureau of Air Quality

**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 09:00 a.m.  
December 18, 2003

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**I. DEPARTMENTAL**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT(S):

Proposed wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6))

City of Eastport, Eastport (Staff: John Glowa 287-3901)  
*Tentatively scheduled for Board Action on January 15, 2004*

Eastern Maine Mussel Corporation, Hancock (Staff: John Glowa 287-3901)  
Town of Mt. Desert, Mt. Desert (Staff: Phil Garwood 287-7695)  
Rockland Marine Corporation, Rockland (Staff: John Glowa 287-3901)  
*Tentatively scheduled for Board Action on February 5, 2004*

**II. CONSENT AGENDA ITEMS**

- 007 1. BEP MINUTES, August 7, 2003 – Approval
- 011 2. BEP MINUTES, August 20, 2003 – Approval
- 013 3. BEP MINUTES, October 2, 2003 - Approval
- 017 4. MICHAEL S. FALVEY and FAMILY TREE LANDSCAPING, LLC, Bangor –  
Administrative Consent Agreement and Enforcement Order (BLWQ - Land)

**II. REGULAR AGENDA ITEMS**

- 045 1. ANNE S. HANNUM / Remand (process discussion/decision)  
Staff: Cynthia S. Bertocci, Board Executive Analyst and Stacie S. Beyer, Bureau of Land  
and Water Quality
- 071 2. DEPARTMENT OF INLAND FISH & WILDLIFE / Mere Point Boat Ramp (appeal of  
Third Procedural Order)  
Staff: Cynthia S. Bertocci, Board Executive Analyst

- 021     3. CHAPTER 137, EMISSION STATEMENT / AMENDMENT (post to public hearing)  
Staff: David Wright, Bureau of Air Quality
4. INFORMATIONAL SESSION / Cumulative Impact (no vote to be taken)  
    **Handout Materials:**  
        (a) LD 242 Resolve, Relating to Consideration of Cumulative Effect on protected Natural Resources  
        (b) Chapter 310, Section D. No Unreasonable Impact  
        (c) Draft, SOP Guidelines for Assessing cumulative Impacts to Protected Natural Resources...
5. 2003 DRAFT ANNUAL REPORT TO LEGISLATURE (discussion)  
Staff: Cynthia S. Bertocci  
Documentation to be provided under separate cover

*Next Regular Board Meeting – Thursday, January 15, 2004 – Senator Inn, Augusta*

# Appendix B

## Board membership

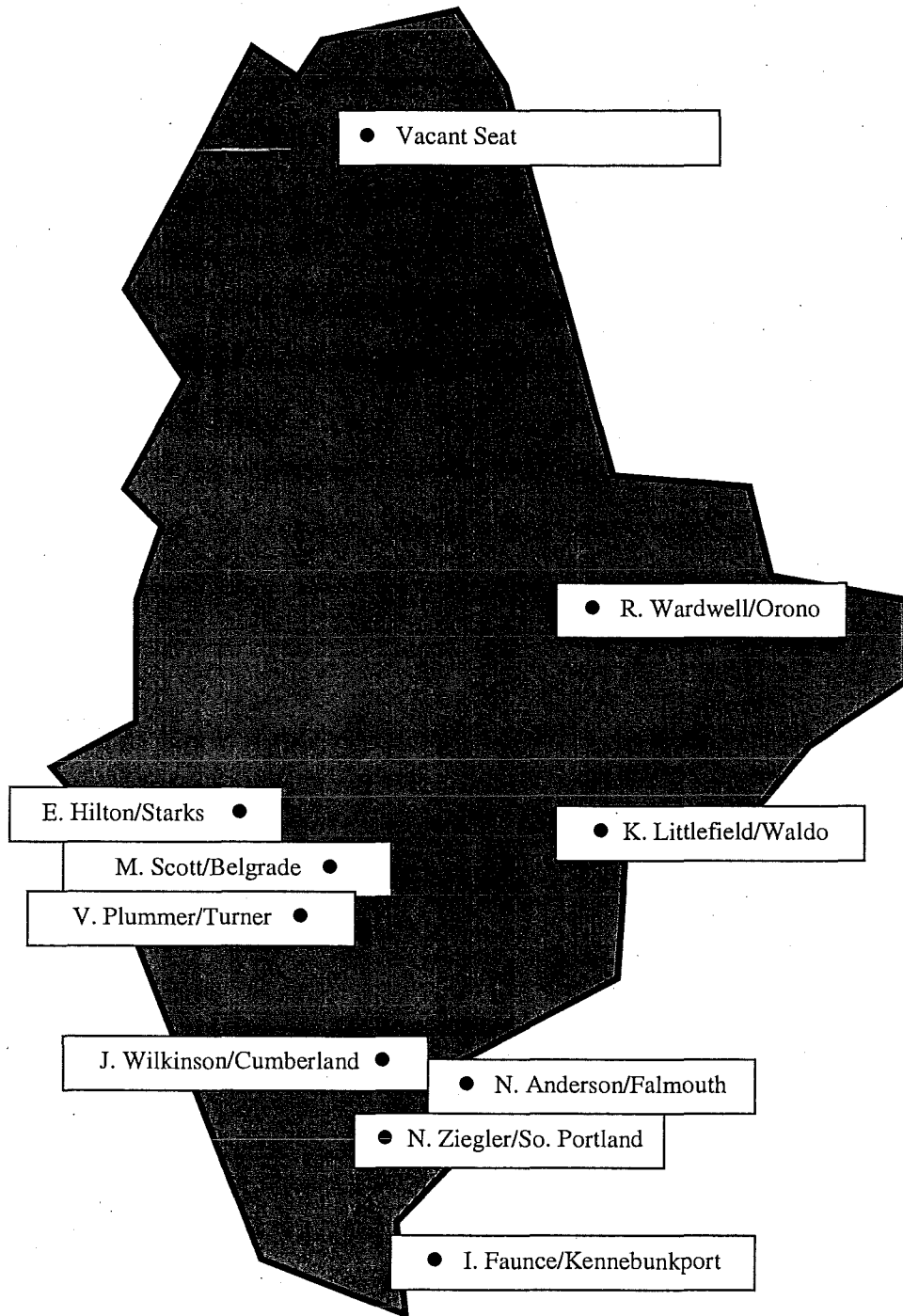


## MEMBERS OF THE BOARD OF ENVIRONMENTAL PROTECTION

<u>Members</u>	<u>Expiration Date</u>	<u>Terms</u>
Richard Wardwell, Chair Orono	October 2, 2007	2 <sup>nd</sup>
Nancy Ziegler So. Portland	January 30, 2006	1 <sup>st</sup>
Virginia Plummer Turner	August 26, 2007	2 <sup>nd</sup>
Vacancy / Northern Maine		
Irving Faunce, Kennebunkport	June 3, 2005	1 <sup>st</sup>
Katharine Littlefield Belfast	June 25, 2004	2 <sup>nd</sup>
Jean T. Wilkinson Cumberland Foreside	December 12, 2005	2 <sup>nd</sup>
Ernest Hilton Starks	January 30, 2006	2 <sup>nd</sup>
Matt Scott Belgrade	July 27, 2007	1 <sup>st</sup>
Nancy Anderson Falmouth	November 03, 2007	1 <sup>st</sup>

The Board of Environmental Protection consists of ten members serving a term of 4 years and appointed by the Governor -- Please contact Terry Hanson, staff member to the Board at (207) 287-2811 with any questions or concerns.

Revised 11-06-03



• Vacant Seat

• R. Wardwell/Orono

E. Hilton/Starks •

• K. Littlefield/Waldo

M. Scott/Belgrade •

V. Plummer/Turner •

J. Wilkinson/Cumberland •

• N. Anderson/Falmouth

• N. Ziegler/So. Portland

• I. Faunce/Kennebunkport

## MAINE BOARD OF ENVIRONMENTAL PROTECTION

### *Richard E. Wardwell, Chair* Orono

Board Member Wardwell is a Professional Engineer with degrees in Civil, Geotechnical, and Groundwater Engineering. He has over 20 years of experience as an environmental engineer, specializing in the design of earthen structures, the design and assessment of waste disposal facilities, and the control and remediation of contamination from solid and hazardous waste disposal sites. Mr. Wardwell is an independent consulting engineer based in Orono and an adjunct faculty member of Civil Engineering at the University of Maine where he currently teaches courses in geotechnical, groundwater, and hydrologic engineering. Mr. Wardwell is a commercial pilot and certified flight instructor and serves on the Airport Advisory Committee in Old Town. He was appointed to the Board in April of 2000 and appointed by Governor King as chair in December of 2002.

### *Nancy Ziegler, So.* Portland

Board Member Ziegler is a graduate in History of the University of California at Berkeley and of the University of Maine School of Law. She was admitted to practice law in Maine and Federal Court in 1981. Following law school, Ms. Ziegler worked as a research associate at the Marine Law Institute in Portland. She then became an associate with the Portland law firm of Curtis, Thaxter, Stevens, Broder and Micoleau (1984-1994), with a practice in civil litigation including several significant cases involving land use, regulatory and environmental matters. Ms. Ziegler has fourteen years of experience as a debate and mock trial coach at Cape Elizabeth High School where she coached five varsity Lincoln-Douglas Debate state champions. She has served on the Boards of the Maine Suzuki Association, the Jewish Community Center of Portland, and the East End Children's Workshop. Ms. Ziegler was an Assistant Editor of WomenSports Magazine (1973-1975) and a freelance writer with articles published in Runner's World Magazine, Mother Jones Magazine, and San Francisco City Magazine. Ms. Ziegler was appointed to the Board in April of 2002.

### *Irving B. Faunce,* Kennebunkport

Board Member Faunce has extensive experience in health care administration. He is currently the Administrator of Kennebunk Nursing and Rehabilitation Center in Kennebunk, Maine. Past positions include Executive Director and CEO of RiverRidge, a brain injury rehabilitation center in Kennebunk, ME; Director of the Center for Occupational and Environmental Health in Exeter, NH; Vice President for Corporate Planning and Marketing for Kennebec Health System of Augusta, Maine and Executive Vice President and CEO for Yankee Healthcare, Inc, also of Augusta. His community involvement includes two years as a member of the Gardiner City Council, two years as Mayor of the City of Gardiner, nine years on the School Board for SAD #11, and past President of the Gardiner Little League. Mr. Faunce served on the Maine Human Rights Commission from 1976-1981. He was appointed to the Board in September of 2000 to complete the unexpired term of former Board Member Cheryl Bascomb.



# MAINE BOARD OF ENVIRONMENTAL PROTECTION

Page 2

## *Ernest W. Hilton, Starks*

Board Member Hilton is an Attorney and Professional Engineer with a law and engineering office in Madison, Maine. He holds a law degree from the Dickenson School of Law in Carlisle, Pennsylvania and engineering degrees from the University of Maine at Orono in engineering physics and from West Virginia University in mining engineering. Mr. Hilton has worked with both private sector clients and public agencies on legal, technical and policy issues since 1978. He worked as a mining consultant for a number of years in Pennsylvania where he is still a registered engineer. He has also worked as an attorney, engineer and consultant for the Maine Public Utilities Commission on a variety of construction, generation, transmission and conservation issues. His civic experience includes two years as a Selectman for the Town of Starks, nine years as Chairman of the Starks Board of Appeals, and ten years on the SAD #59 School Board. In addition, Mr. Hilton has founded and been active in a number of historical societies as well as conservation and environmental organizations. He and his family live on a family farm in Starks where they have raised sheep, cattle, and horses, harvest hay, and manage a woodlot. Mr. Hilton was appointed to the Board in May of 1999.

## *Katharine C. Littlefield, Waldo*

Board Member Littlefield is First Selectman and Chair for the Town of Waldo where she has served on the Select Board for 31 years. Ms. Littlefield has also been a member and Chair of the Waldo County Budget Committee and has served on the Advisory Board of the Maine Municipal Association. As such, Ms. Littlefield has extensive experience in municipal and county government and the implementation of environmental laws at the local level, particularly those relating to solid waste management. Ms. Littlefield and her husband are the owners and operators of a family farm where they raise dairy cows and draft horses and manage a woodlot. Ms. Littlefield was appointed to the Board of Environmental Protection in April of 1996 and is serving her second term.

## *Virginia N. Plummer, Turner*

Board Member Plummer is a writer, an independent filmmaker, and a Human Services Consultant, providing services to state agencies and numerous non-profit organizations. Past professional experience includes that of Executive Staff and Principal Writer for the Department of Human Services Commissioner's Task Force on Incapacitated and Dependent Adults, Executive Director of the Maine Committee on Aging, and Director of Special Projects for the Maine Committee on Aging including the WGME television production entitled "Gray Matters". Ms. Plummer is a member of the International Women's Writing Guild; Board member of the Nezinscot Guild, an agency that employs developmentally disabled individuals; a coach for Odyssey of the Mind teams in SAD #52, and Board member of the Student Based Health Center in SAD #52. Ms. Plummer was appointed to the Board in October of 1999.

## MAINE BOARD OF ENVIRONMENTAL PROTECTION

Page 3

### *Jean T. Wilkinson, Cumberland Foreside*

Board Member Wilkinson has a financial background with a Bachelors Degree in Economics from Wellesley College and a Masters Degree in Education from the University of Southern Maine. She recently retired from Fleet Bank of Maine as a Vice President and Relationship Manager in its Private Clients Group. Ms. Wilkinson also has a long record as a civic leader and volunteer. She currently serves on numerous boards including the University of New England (Board Chair from 1989-1995), Maine College of Art, North Yarmouth Academy, Anthem Blue Cross Blue Shield Quality Management Oversight Committee (Board Chair Blue Cross Blue Shield of Maine 1990-1993), Community Health Services, Maine Humanities Council, Chewonki Foundation, Spurwink/UNE Center for Research, and Maine Episcopal Diocesan Funds. Ms. Wilkinson was appointed to the Board in October of 1997 to complete the unexpired term of former Board Member Ronald Mallett. Ms. Wilkinson began her first term in March of 1998.

### *Matt Scott, Belgrade*

Board Member Scott is an Aquatic Biologist, a Certified Fisheries Scientist, and an elected Fellow to the American Institute of Fishery Research Biologists. He holds both Bachelors and Masters degrees in Wildlife Management, Fishery Science and Public Administration from the University of Maine. Following retirement from 38 years of service in Maine State Government, including service as Deputy Commissioner for the Department of Inland Fisheries and Wildlife, Mr. Scott was given Emeritus status by the American Fisheries Society, American Institute of Fishery Research Biologists, and the North American Lake Management Society. In addition to his State Service, Mr. Scott has been an adjunct faculty member at Colby College and has served as Executive Secretary for Project SHARE (Salmon Habitat and River Enhancement). He is a past President of the North American Lake Management Society, a past President of the Sportsman's Alliance of Maine, and, as a hobby beekeeper, a past President of the Eastern Apicultural Society of North America. Mr. Scott is also a Registered Master Maine Guide, and serves on the Maine Guides Advisory Board. Matt's volunteer and community service work has included pro bono work for many conservation and environmental organizations, service on the Belgrade Planning Board, and service as Scoutmaster and Committee Chairman for Boy Scout Troop 453 in Belgrade. He and his wife, Kathleen, reside in Belgrade on their 100 acre farm where Matt manages a woodlot and maintains several colonies of bees for pollination and honey production. Governor John E. Baldacci appointed Mr. Scott to the Board in June 2003.

### *Nancy C. Anderson, Falmouth*

Board member Anderson has a law degree from Harvard University and an undergraduate degree in Government. As a staff attorney for the Maine Audubon Society from 1982 to 1987, Ms. Anderson was actively involved in habitat protection, conservation and natural resource protection policy issues. Ms. Anderson subsequently served as a Board member, Vice President and President of Maine Audubon from 1988 to 1994 and in those roles continued to work with various interest groups to craft conservation policy. She is currently an organizer and leader of weekend retreats in nature. In addition to her interest in environmental policy, Ms. Anderson is a singer and soloist in the Woodfords Congregational Church Choir in Portland and a concert organizer for local non-profit organizations such as the Maine Time Dollar Network. She also was a co-founder of the Maine Women's Fund, a grant making organization that works in partnership with other non-profits to create solutions to the problems facing Maine's women and girls. Ms. Anderson was appointed to the Board in October of 2003.

(December 2003)