

Commissioner Aho's June 24, 2015 Determination on Board Jurisdiction



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

June 24, 2015

TO: Interested Persons

RE: Searsport Navigation Improvement Project,
DEP Project #L-26487-08-A-N/L-26487-4E-B-N

Dear Sir or Madam:

Thank you for your letters and e-mails requesting a public hearing and/or Board of Environmental Protection jurisdiction for the above-referenced applications for a Natural Resource Protection Act permit and a Water Quality Certification. The US Army Corps of Engineers and the Maine Department of Transportation have filed permit applications to dredge 929,000 cubic yards of material from Searsport Harbor in order to deepen and widen the existing navigation channel and construct a turning basin for ships utilizing the Mack Point facility. The dredge spoils are proposed to be disposed of in three "pock marks" in the Penobscot Bay Disposal Area.

According to the Department's Chapter 2 Rule, *Rule Concerning the Processing of Applications and Other Administrative Matters*, "the Department will hold a hearing in those instances where the Department determines there is credible conflicting technical information regarding a licensing criterion and it is likely that a hearing will assist the Department in understanding the evidence." Several interested persons submitted information on the potential impact of contaminants in the dredge spoils and their effect upon area fisheries; the geological suitability of the proposed dredge spoil disposal area; and the project need. The information provided is sufficient to demonstrate that there is credible conflicting technical information, and therefore I have determined that holding a public hearing on this application will assist the Department in understanding the information.

Several interested persons also requested that the Board of Environmental Protection take jurisdiction over the proposed applications. 38 M.R.S. § 341-D(2) establishes the criteria for which the Board shall assume jurisdiction over certain applications. While the above-referenced applications do not meet the criteria for the Board of Environmental Protection jurisdiction, a public hearing on these applications will assist the Department, thus I will be recommending that the Board of Environmental Protection not assume jurisdiction over these applications.

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The public hearing will be undertaken pursuant to the Department's rules and requirements. In separate correspondence, the Department's hearing officer will detail the parameters of the public hearing.

Sincerely,



Patricia W. Aho
Commissioner

cc: Barbara Blumeris, ACOE
John Henshaw, DOT
Heather Parent, DEP
Susanne Miller, DEP
Mark Bergeron, DEP
Jim Beyer, DEP
Maria Lentine-Eggett, DEP