

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR



GERALD D. REID  
COMMISSIONER

**IN THE MATTER OF:**

<b>SHOEM CORP.</b>	)	
<b>SOUTH BERWICK, MAINE</b>	)	<b>ADMINISTRATIVE CONSENT</b>
<b>YORK COUNTY</b>	)	<b>AGREEMENT</b>
<b>OIL DISCHARGE PREVENTION AND</b>	)	<b>(38 M.R.S. § 347-A)</b>
<b>POLLUTION CONTROL</b>	)	
<b>EIS DOCKET # 2019-162-O</b>	)	

This Agreement, by and among SHOEM Corp., and the State of Maine, Department of the Attorney General ("AG"), and Department of Environmental Protection, as approved by the Maine Board of Environmental Protection ("Board"), is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S. §§ 347-A(1) and 341-D(6).

**THE PARTIES AGREE AS FOLLOWS:**

1. SHOEM Corp. ("SHOEM") owns and operates a road maintenance business, organized and existing under the laws of Maine and in good standing with the Secretary of State. Amanda Bjork is the President of SHOEM.
2. The State of Maine, Department of Transportation ("DOT") owns real property ("Site") recorded in the Town of Mercer Tax Map 06, Lot 31, and located at 121 Valley Road in the Town of Mercer, Maine.
3. Throughout the period of time addressed by this Agreement, SHOEM was subject to the following Maine environmental standards:
  - A. *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S. § 543.  
"The discharge of oil into or upon any coastal waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the State, or into or upon any lake, pond, river, stream, sewer, surface water drainage, ground water or other waters of the State or any public or private water supply or onto lands adjacent to, on, or over such waters of the State is prohibited."
  - B. *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S. § 548.  
"Any person discharging or suffering the discharge of oil in the manner prohibited by section 543 shall immediately undertake to remove that discharge to the commissioner's satisfaction."

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

<b>SHOEM CORP.</b>	)	
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<b>EIS DOCKET # 2019-162-0</b>	)	

4. On June 12, 2019, an employee of Pike Industries, Inc. ("Pike") reported to the Department that SHOEM, a subcontractor of Pike, "accidentally sprayed Fog Seal CRS-2H on the ground" at the Site.
5. On June 13, 2019, staff from DOT met with the Maine Warden Service at the Site to investigate the death of 9 turkey poults. The poults had apparently died from being immersed in Fog Seal CRS-2H.
6. SHOEM employees indicated they did not see any turkeys at the time of testing the spray nozzles, nor did they have clean-up materials on the day of the incident.
7. On June 14, 2019, employees of Pike removed the dead wildlife and an estimated 9 gallons of hardened liquid asphalt (Fog Seal CRS-2H) and soil from the site. The hardened asphalt was taken to Pike's recycled asphalt stockpile at its 95 Western Avenue Fairfield facility.
8. On June 17, 2019, the Maine Warden Service met with John Bjork who identified himself as the owner of SHOEM. Mr. Bjork stated that on the day of the incident he, George Thornton and Craig Smith had just arrived at the job site and needed to test the spray truck. According to the Maine Warden Service report, Mr. Bjork admitted he knew they were not supposed to test the equipment in that manner, but needed to test the spray nozzles before the job.
9. By discharging oil as described in Paragraphs 4-8 of this Agreement, SHOEM suffered or caused a prohibited discharge of oil in violation of 38 M.R.S. § 543.
10. By failing to immediately undertake action to clean up the prohibited oil discharge described in Paragraphs 4-8 of this Agreement to the Commissioner's satisfaction, SHOEM violated 38 M.R.S. § 548.
11. On July 3, 2019, the Department issued SHOEM a Request For Documents and Information for the activities described in Paragraphs 4-8 of this Agreement, in accordance with 38 M.R.S. § 347-A(1)(B).
12. On August 22, 2019, SHOEM submitted to the Department for review and approval a partial package of the requested documents.
13. On September 25, 2019, the Department issued SHOEM a Notice of Violation for the activities described in Paragraphs 4-10 of this Agreement, in accordance with 38 M.R.S. § 347-A(1)(B).

<b>SHOEM CORP.</b>	)	
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14. This Agreement shall become effective only if it is approved by the Board and the Attorney General.
15. To resolve the violations referred to in Paragraphs 4-10 of this Agreement, SHOEM agrees to:
  - A. Prior to August 7, 2020, equip the Maximizer III asphalt distributor truck with a spill kit, capable of containing small spills of less than 10 gallons of petroleum products;
  - B. Prior to August 28, 2020, conduct employee safety training that includes proper oil spill reporting and clean-up procedures;
  - C. Pay to the *Treasurer, State of Maine c/o the Maine Ground and Surface Waters Clean-up and Response Fund*, a civil monetary penalty in the amount of six thousand dollars (\$6,000.00) as follows:
    - i. Immediately upon signing this agreement, pay to the *Treasurer, State of Maine c/o the Maine Ground and Surface Waters Clean-up and Response Fund*, a civil monetary penalty in the amount of three thousand dollars (\$3,000.00);and
    - ii. Beginning August 1, 2020 and on the first day of each month thereafter pay to the *Treasurer, State of Maine c/o the Maine Ground and Surface Waters Clean-up and Response Fund*, a civil monetary penalty in the amount of five hundred dollars (\$500.00) until the civil monetary penalty of six thousand dollars is paid in full.
16. The Department and Office of the Attorney General grant a release of their causes of action against SHOEM for the respective specific violations listed in Paragraphs 4-10 of this Agreement on the express condition that all actions listed in Paragraph 16 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement and that no releases are granted for damages and injury to Maine's natural resources. In the event that contamination from any oil discharge described above is found to threaten public health, safety or the environment, this Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions necessary to protect public health, safety, or the environment. This release shall not become effective until all requirements of this Agreement are satisfied.
17. Non-compliance with this Agreement voids the release set forth in Paragraph 16 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.

**SHOEM CORP.****SOUTH BERWICK, MAINE****YORK COUNTY****OIL DISCHARGE PREVENTION AND****POLLUTION CONTROL****EIS DOCKET # 2019-162-0**

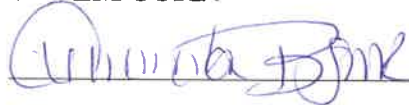
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**ADMINISTRATIVE CONSENT  
AGREEMENT  
(38 M.R.S. § 347-A)**

18. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.
19. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of four (4) pages:

SHOEM CORP.


DATE: 5.28.2020

AMANDA BJORK, PRESIDENT

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
MARK C. DRAPER, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

MARY M. SAUER, ASSISTANT ATTORNEY GENERAL