



Gerald D. Reid
Commissioner

Department of
Environmental Protection
State of Maine

MEMORANDUM

TO: Mark C. Draper, Board Chair of the Board of Environmental Protection, and

Mary M. Sauer, Assistant Attorney General

FROM: Gerald D. Reid, Commissioner, and

Scott Whittier, Bart Newhouse, Bureau of Remediation and Waste Management, Petroleum
Management Division

SUBJECT: ADMINISTRATIVE CONSENT AGREEMENT, SHOEM Corp.

DATE: July 2, 2020

Statute and Rule Reference:

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."

Location: Maine Department of Transportation, 121 Valley Road, Mercer, Maine

Violator: SHOEM Corp.

Description: On June 12, 2019, an employee of Pike Industries, Inc. ("Pike") reported to the Department that SHOEM Corp. (SHOEM), a subcontractor of Pike, "accidentally sprayed Fog Seal CRS-2H (liquid asphalt) on the ground" at 121 Valley Road in Mercer, Maine ("Site"). Upon further investigation, SHOEM employees indicated that they discharged Fog Seal CRS – 2H (liquid asphalt) to the ground to test spray nozzles prior to moving onto a nearby job site.



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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 the discharged Fog Seal CRS-2H.

Environmental Issues: Employees of SHOEM, tested spray nozzles and discharged waste petroleum-based tack (Fog Seal CRS-2H) to the environment at the Site. The heated tack was sprayed in close proximity to a turkey nest and resulted in the death of at least 9 turkey poults. Additional wildlife is believed to have been harmed by the prohibited discharge.

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.

Staff Recommendation: The Department recommends acceptance of this Administrative Consent Agreement as proposed stipulating a monetary penalty of six thousand dollars (\$6,000.00), with three thousand dollars (\$3,000.00) immediately paid to the *Treasurer, State of Maine c/o the Maine Ground and Surface Waters Clean-up and Response Fund*, and the remaining three thousand dollars (\$3,000.00) paid through five hundred dollars (\$500.00) monthly installments.

Is the agreement subject to 30-day public comment pursuant to 38 M.R.S. § 347-A(6)?

Yes ☐ No ☒

POSTED FOR 30-DAY PUBLIC COMMENT:

Enforcement Coordinator: _____ Posting Date: _____ Expires: _____

PROCEED WITH SIGNATURE:

Enforcement Coordinator: _____ Date: _____