



PAUL R. LEPAGE
GOVERNOR

DARRYL N. BROWN
COMMISSIONER

MEMORANDUM

TO: The Board of Environmental Protection
FROM: James R. Beyer, Bureau of Land & Water Quality, Bangor
RE: Consent Agreement for Gerard Goodwin
DATE: March 17, 2011

Statute and Rule Reference: The *Performance Standards for Excavations*, 38 M.R.S.A. § 490-C, states, in pertinent part, that a "Notice of Intent to Comply" must first be submitted to the Department of Environmental Protection prior to expanding a gravel pit by more than 5 acres.

Location: Franklin, Maine

Description: In October 2008, an investigation into a gravel pit owned and operated by Gerard Goodwin revealed that he had created an 18 acre gravel pit on his property on Egypt Road in Franklin. Portions of the pit had been mined below the seasonal high water table and a ditch was dug to drain the pit externally. In other portions of the pit, gravel had been mined within 50 feet of a railroad right-of-way. Gerard Goodwin had not filed a Notice of Intent to Comply for this pit.

Environmental Issues: Gravel pits have the potential to create erosion and sedimentation problems from uncontrolled runoff, ground water pollution from fuel spills and equipment leaks, air pollution from uncontrolled dust sources, noise pollution, and safety concerns from steep slopes. These concerns are addressed by operating a pit in compliance with the Department's Performance Standards for Excavations.

Department Recommendation: The Department recommends acceptance of this Consent Agreement stipulating that Gerard Goodwin pay a monetary penalty of \$15,000.00, which has been paid. Most of the work to bring the pit into compliance with the Performance Standards has been completed. The areas that were mined below the seasonal high water table have been filled, as has the ditch that drained the pit. The working pit has been reduced to ten acres by grading and seeding approximately 8 acres. The work remaining to be completed this construction season is to restore the buffer strip along the railroad right-of-way. The penalty is based on the Department's penalty policy reflecting the size of the violation, knowledge of the violator, and that the violation could have been avoided.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

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 04769-2094
(207) 764-0477 FAX: (207)760-3143



018

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEFAGE
GOVERNOR

JAMES P. BROOKS
ACTING COMMISSIONER

IN THE MATTER OF

GERARD GOODWIN) ADMINISTRATIVE CONSENT
FRANKLIN, HANCOCK COUNTY, MAINE) AGREEMENT
MINING) (38 M.R.S.A. §347-A)
EIS #2008-204-L)

This Agreement by and among Gerard Goodwin, the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

The parties agree as follows:

- 1. Gerard Goodwin owns a parcel of land located adjacent to Egypt Road in Franklin, Maine as described and recorded in Book 2105 on Page 84 of the Hancock County Registry of Deeds.
2. Gerard Goodwin operates a gravel pit on the property described in Paragraph 1 of this Agreement.
3. On October 2, 2008, Department staff determined through the use of aerial photographs and a field investigation that the gravel pit located on the property described in Paragraph 1 of this Agreement had been expanded by approximately 18.6 acres since 1970. A review of Department records revealed that a "Notice of Intent to Comply" had not been obtained for this activity as required by Maine's Performance Standards for Excavations, 38 M.R.S.A. § 490-C. The inspection also revealed that gravel had been mined within 50 feet of a public right-of-way and below the seasonal high ground water table. Under the Performance Standards for Excavations, 38 M.R.S.A. §490-D, a natural buffer strip at least 50 feet wide must be maintained between any excavation and any public right-of-way and excavation may not occur within 5 feet of the seasonal high water table.
4. The activities described in Paragraph 2 of this Agreement constitute the following violations:
A. By expanding a gravel pit by more than five acres since 1970 without first filing a "Notice of Intent to Comply"

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

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 04679-2094
(207) 764-0477 FAX: (207) 760-3143

GERARD GOODWIN
FRANKLIN, HANCOCK COUNTY, MAINE
MINING
EIS #2008-204-L

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

019

pursuant to the Department's program of *Performance Standards for Excavations*, Gerard Goodwin violated the *Performance Standards for Excavations*, 38 M.R.S.A. § 490-C.

- B. By excavating within 50 feet of a public right-of-way, Gerard Goodwin violated the *Performance Standards for Excavations*, 38 M.R.S.A. § 490-D(6-A).
 - C. By excavating within 5 feet of the seasonal high water table, Gerard Goodwin violated the *Performance Standards for Excavations*, 38 M.R.S.A. § 490-D(3).
5. On October 6, 2008, the Department issued a Notice of Violation to Gerard Goodwin for the violations described in Paragraphs 3 and 4 of this Agreement in accordance with 38 M.R.S.A. § 347-A(1)(B).
 6. On March 8, 2010, Gerard Goodwin submitted a "Notice of Intent to Comply", which was approved by the Department on March 23, 2010.
 7. On October 20, 2010, staff re-inspected the gravel pit and found that the two areas that had been mined below the seasonal high water table had been backfilled and graded. One of the areas had been revegetated, but the other had not been.
 8. This Agreement shall become effective only if approved by the Board and the Office of the Attorney General.
 9. To resolve the violations referred to in Paragraphs 3 and 4 of this Agreement, Gerard Goodwin agrees to:
 - A. No later than November 30, 2011, bring the pit into compliance with the *Performance Standards for Excavations*, 38 M.R.S.A. §§ 490-A to 490-M. The restoration must include grading any slopes to 2.5 to 1, loaming, seeding, mulching.
 - B. Pay the Treasurer, State of Maine, upon signing this Agreement, the sum of fifteen thousand dollars (\$15,000.00) as a civil monetary penalty.
 10. The Department and the Maine Office of the Attorney General grant a release of their causes of action against Gerard Goodwin for the specific violations listed in Paragraphs 3 and 4 of this Agreement on the express condition that all actions listed in Paragraph 9 of this Agreement are completed in accordance with the express terms and

020

GERARD GOODWIN)	ADMINISTRATIVE CONSENT
FRANKLIN, HANCOCK COUNTY, MAINE)	AGREEMENT
MINING)	(38 M.R.S.A. §347-A)
EIS #2008-204-L)	

conditions of this Agreement. The release shall not become effective until this condition is satisfied.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of three (3) pages.

GERARD GOODWIN

BY: Gerard Goodwin 2-14-11 DATE:

BOARD OF ENVIRONMENTAL PROTECTION

BY: _____ DATE:
SUSAN M. LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____ DATE:
AMY MILLS, ASSISTANT ATTORNEY GENERAL