

IN THE MATTER OF

CHARLOTTE SMITH PROPERTY SITE
Meddybemps, Washington County, Maine) DESIGNATION OF
PROCEEDING UNDER 38 M.R.S.A.) UNCONTROLLED HAZARDOUS
SECTION 1365, UNCONTROLLED) SUBSTANCE SITE
HAZARDOUS SUBSTANCE SITES LAW

Jurisdiction

This Designation of an Uncontrolled Hazardous Substance Site is made pursuant to the authority vested in the Commissioner of the State of Maine Department of Environmental Protection (Commissioner) under the **Uncontrolled Hazardous Substance Sites Law, 38 M.R.S.A., Section 1361-1371.**

Findings of Fact

1. The Charlotte Smith Property (herein after referred to as the Site) is comprised of one parcel of property located in Meddybemps, Washington County Maine (Figure 1, hereto attached and made a part of this Designation) and means the property where Charlotte Smith resided prior to her death in 2000. The Site, containing 0.7 acres, more or less, is located on the north side of Route 191 and on the eastern side of the Dennys River at 881 Main Street, Meddybemps, Maine. This parcel is identified as Lot 12 on Map 9 of the Town of Meddybemps property maps as well as in a deed to Dawn Smith which is filed in the Washington County Registry of Deeds at Book 2132, Page 138. The geographic coordinates for the approximate center of the property are latitude. 45°2'19.39" North, longitude 67°21'26.10" West.
2. There are two permanent structures on the Charlotte Smith Property including a yellow, wood-sided, single level type residence and a detached garage. There is also a bus, marked Portsmouth Naval Shipyard, located between the detached garage and the residence, which is used for storage. Access to the Site from Route 191 or from a private road forming the easterly border of the property is unrestricted, access to the west is unrestricted from the Dennys River mill pond. Figure 2, (hereto attached and made a part of this Designation) shows this property.
3. The Site is located in primarily a rural-residential area. Homes in the area are served by private residential wells. The closest residence is onsite but is currently vacant. The closest occupied residence is approximately 200 yards southeast of the Charlotte Smith property boundary.
4. The Dennys River, which is protected under the Clean Water Act, abuts the Site property. Scrap metal, transformers, oil drums and other junk materials are located along the bank above the river, which borders the Site along the entire western boundary. The Dennys River is one of the "Distinct Population Segments" for the Atlantic Salmon, which has been listed on the Federal Endangered Species list.

5. Dawn Smith is the owner of the Charlotte Smith Property site, which appears to have been used as a warehouse facility, storing hazardous substances, high-pressure cylinders, and other materials.
6. The DEP long suspected that hazardous materials were stored at the Site. DEP staff requested access on several occasions. Dawn Smith denied access each time. On June 3, 2004 DEP staff obtained a search warrant, signed by Judge Michael N. Westcott, allowing access to the Site.
7. On June 8, 2004 DEP staff entered the Site and observed numerous containers labeled as containing hazardous materials. A partial list of the materials is found in paragraph 11. In the basement of the house containers, stored in a haphazard fashion, were observed piled to the ceiling (approximately ten feet high). It appeared that some of the containers were placed at the Site years, if not decades, previous. Containers identified as holding incompatible materials are co-located and many are in poor condition (some have leaked, releasing their contents, others appear on the verge of leaking).
8. Other containers, including transformers and cylinders, are evident outside the basement.
9. Condition of the waste containers on the Charlotte Smith Property indicate that hazardous matter and hazardous waste liquids discharged to the land and waters of the State, in violation of 38 M.R.S.A. Section 1317-A, which prohibits the discharge of hazardous matter into or upon any land or waters of the State, and in violation of 38 M.R.S.A. Section 1306 (3), which prohibits the discharge of any hazardous waste into or upon an land or water of the State, without a license to do so.
10. Hazardous substances located at this Site consists, in part, of waste generated by the United States Department of Defense (DOD). Markings on containers and documents found at the Site indicate that waste at the Site is DOD material. Since 1982, the MEDEP has investigated the Eastern Surplus Company Site and the Smith Junkyard Site, both located in Meddybemps and both owned and operated by members of Charlotte Smith's family. Investigation of the sites revealed thousands of containers of hazardous waste that were stored improperly and were either leaking or in eminent danger of leaking. Conditions at the Charlotte Smith Property are much the same as seen at previous Smith sites, containing the same types of waste in the same types of condition, originating from the same source.
11. Containers of waste identified at the Site include, but are not limited to, the following hazardous substances (also see Table 1, hereto attached and made a part of this Designation). The contents of many of these containers were liquids and some containers had discharged their entire contents into the environment.
 - a) Lead (paint)
 - b) Sodium Hypochlorite
 - c) Silver-Zinc (batteries)
 - d) Zinc

- e) Hydrochloric Acid
- f) Sodium Hydroxide
- g) DDT
- h) Carbon Tetrachloride (fire extinguishers)
- i) Methyl Isobutyl Ketone
- j) Tetrachloroethylene
- k) Chlorobromomethane
- l) Sodium Borate
- m) Molybdenum Disulfate
- n) Sodium Perorate
- o) Naphtha Petroleum
- p) Calcium Hydride
- q) Poly Isobutylene
- r) Sodium Silicate

Contaminants listed in a through j, above, are "listed" hazardous waste, as defined in the Rules, Chapter 850, Section 3(C)(2); contaminants listed in a through r, above, may be hazardous waste by characteristic as defined by the Department's Hazardous Waste Management Rules (the Rules) Chapter 850 Section 3(B). Hazardous wastes, including characteristic wastes and "listed" wastes, are defined as hazardous matter in the Department's Identification of Hazardous Matter Rules, Chapter 800 Section 4(B).

12. Surficial geologic maps of the Charlotte Smith Property area indicate that the Site is situated on glacio-marine tills of the Presumpscot Formation, noted for its low permeability and poor drainage. Glacial till typically forms a thin 0-40 feet veneer on top of bedrock. Glacial till consists of a very dense, nonsorted, nonstratified mixture of gravel in a fine-grained matrix of fine sand, silt and clay. Locally, a less compact, sandy stony facies of till may overlie the compact facies. Glacial till is overlain by both fine-grained and coarse-grained glaciomarine sediments that vary in thickness, and are composed of stratified and non-stratified sands, gravels, silts, and clays. The underlying bedrock is Devonian-age Meddybemps granite. The surficial tills at the Site are relatively thin, and the relatively low relief of the area keeps the water table close to the surface. Therefore, contamination of both surface and groundwater due to the drainage from the Site is possible. It is assumed that groundwater flow follows the topography of the Site, flowing to the Dennys River south and west of the Site.
11. Overland flow from the Charlotte Smith Property is to the Dennys River along the entire westerly border as it flows along the Site boundary. The overburden and bedrock groundwater flow is to the west-southwest of the Site (see figures 3, 4 and 5, hereto attached and made a part of this Designation).
12. 38 M.R.S.A., Chapter 13B (Waste Management, Uncontrolled Hazardous Substance Sites), Section 1362(1) defines "hazardous substance" as:
 - a) Any substance identified by the Board of Environmental Protection under 38 M.R.S.A., Section 1319-0 [hazardous waste];

- b) Any substance identified by the Board under 38 M.R.S.A., Section 1319 [hazardous matter];
 - c) Any substance designated pursuant to the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, Public Law 96-510, Sections 101 and 102 [Superfund];
 - d) Any toxic pollutant listed under the United States Federal Water Pollution Control Act, Section 307(a);
 - e) Any hazardous air pollutant listed under the United States Clean Air Act, Section 112;
 - f) Any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action pursuant to the United States Toxic Substances Control Act, Section 7; and
 - g) Waste oil as defined in 38 M.R.S.A., Section 1303-C.
13. The substances listed in paragraph 11, above, are hazardous substances within the meaning of 38 M.R.S.A., Section 1362(1). These substances have been stored, spilled, or disposed of at the Site in such a manner that they have been or may be released or discharged into the soil and ground water.
14. As a result of the Department's inspection and the Department's investigation of the hazardous matter and hazardous waste discharges cited in paragraphs 9, 10, and 11 above, the Department identifies Dawn Smith and the United States Department of Defense as responsible parties for the release of hazardous substances.

Conclusions

Based on the above Findings of Fact, the Commissioner concludes:

1. Hazardous substances as defined in 38 M.R.S.A., Section 1362(1) have come to be located at the Charlotte Smith Property site, in Meddybemps, Maine. These substances have entered the soil and surface water at the Site.
2. Hazardous substances located at and released from the Site pose a potential threat or hazard to the public health, safety or welfare and a real threat to the natural environment.
3. There is a continued potential danger to the public health or safety of any person or to the environment exists as a result of the continued presence of hazardous substances at the Site.
4. Remedial action is, necessary to abate the threat, danger, or hazard to public health or safety and to the environment posed by the Site.

CHARLOTTE SMITH PROPERTY SITE
Meddybemps and Cooper, Washington County, Maine
PROCEEDING UNDER 38 M.R.S.A.
SECTION 1365, UNCONTROLLED
HAZARDOUS SUBSTANCE SITES LAW

) DESIGNATION OF
) UNCONTROLLED HAZARDOUS
) SUBSTANCE SITE

5. This Designation does not constitute a cleanup order and therefore is not ripe for review until and unless a cleanup order is issued under M.R.S.A. 1365 (1)(2) and (4).
6. Dawn Smith is the owner of the property where hazardous substances have come to be located, is a responsible party as defined in 38 M.R.S.A § 1362.
7. The United States Department of Defense who arranged for disposal of hazardous substances that arrived at the Charlotte Smith Property site are responsible parties as defined in 38 M.R.S.A § 1362.

THEREFORE, pursuant to 38 M.R.S.A., Section 1365, the Commissioner hereby DESIGNATES the Charlotte Smith Property site in Meddybemps, Maine an Uncontrolled Hazardous Substance Site.

DONE AND DATED AT AUGUSTA, MAINE THIS DAY OF JUNE, 2004.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____

Dawn R. Gallagher
Commissioner