

**MEMORANDUM OF AGREEMENT
FOR STORMWATER MANAGEMENT BETWEEN THE MAINE DEPARTMENT
OF TRANSPORTATION, MAINE TURNPIKE AUTHORITY AND MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION.**

The Maine Department of Environmental Protection (hereinafter DEP), the Maine Department of Transportation (hereinafter MaineDOT), and the Maine Turnpike Authority (hereinafter MTA) agree as follows:

WHEREAS, projects involving state transportation systems developed by or under the supervision of the MaineDOT or MTA must meet the storm water requirements set forth in a Memorandum of Agreement between the DEP, MaineDOT and MTA; and

WHEREAS, DEP, MaineDOT and MTA recognize the unique characteristics, benefits and impacts of state transportation systems, including without limitation roads and railroads; and

WHEREAS, DEP, MaineDOT and MTA agree that the intent of this Memorandum of Agreement is to achieve stormwater quality and quantity controls reasonably consistent with the standards set out by the DEP in Chapter 500 Stormwater Management Rules; and

WHEREAS, those objectives will be achieved by a comprehensive stormwater management program that applies to any project developed, administered, supervised, or overseen by MaineDOT or MTA which otherwise would have required a stormwater permit or been subject to the standards of Chapter 500, but for the exemption in 38 M.R.S.A. §420-D(7)(G), and that applies to all other MaineDOT and MTA projects located in the organized territory which would not have required a storm water permit or not have been subject to the standards of Chapter 500; and

WHEREAS, comprehensive stormwater management as part of MaineDOT and MTA projects in the organized territory will result in substantial environmental benefits for all

watersheds and in particular those direct watersheds of lakes most at risk from new development or urban impaired streams.

NOW, THEREFORE, MaineDOT and MTA will adopt the following requirements for stormwater management,

1. Applicability.

This Memorandum of Agreement (MOA) applies to MaineDOT and MTA projects that would be required to meet the requirements of the Stormwater Management Law if not for the exemption in Title 38 MRSA §420-D(7)(G). It does not apply to projects requiring a permit pursuant to the Site Location of Development Law.

This MOA addresses the specific technical issues associated with state transportation system projects undertaken by or under the administration, supervision, or oversight of MaineDOT and MTA, and specifies the storm water quality and quantity standards which will apply to those projects. MaineDOT and MTA have agreed to adopt standards that are based on the type of project and the project location with respect to direct watersheds of lakes most at risk from new development and urban impaired streams, as set forth in Chapters 500 and 502 of the Maine Stormwater Management Rules.

No state transportation system project constructed pursuant to the requirements of this MOA is required to get a permit or DEP approval pursuant to the Maine Stormwater Management Law.

2. Definitions.

- A. Roads. All roads, highways, bridges, bike paths, interchanges and intersections.

- B. Construction site operator. The contractor's designated on-site supervisor or MaineDOT or MTA's designated on-site supervisor if there is no outside

contractor.

- C. State transportation system. 1) (a) MaineDOT and MTA administered or supervised state or state aid highways along with associated sidewalks, paths, trails and/or bridges; (b) MaineDOT administered or supervised marine highways, airports, and rail lines along with associated sidewalks, paths, trails and/or bridges, and 2) any associated facilities essential to the safe and efficient operation of those state transportation systems, including but not limited to highway maintenance facilities, transit/rail stations, toll plazas, ferry terminals, cargo ports, intermodal transportation centers, weigh stations, rest areas, visitor information centers, service plazas, and park-and-ride lots as well as parking lots and other infrastructure serving those facilities.
- D. Linear portion of a project. All rail lines, roads, highways, bridges, or similar transportation corridors, along with associated interchanges, scenic turnouts, access ramps, airport runways and taxiways, weigh stations, toll facilities, intersections, sidewalks, trails, paths and similar associated facilities including associated parking and building area of up to 5,000 square feet.
- E. Non-linear portion of a project. All portions of a state transportation system that are not linear. Examples of a non-linear portion of a project include, but are not limited to, maintenance facilities, intermodal transportation centers, transit/rail stations, and airport terminals, hangers and aprons.

3. Specific Provisions to Comply with Chapter 500 Standards.

All state transportation system projects undertaken by or under the administration, supervision, or oversight of MaineDOT and MTA shall comply with the requirements of Chapter 500 and 502 as follows.

- A. Basic Standards. All projects shall meet the Basic Standards described in Section

4(A) of Chapter 500, through implementation of best management practices described in the MaineDOT's Best Management Practices for Erosion and Sedimentation Control (hereinafter the MaineDOT BMP Manual) as may be updated from time to time.

B. General Standards. For projects that are large enough to trigger the General Standard threshold in Chapter 500:

- (1) A linear portion of a project located in the direct watershed of a lake most at risk from new development or in the watershed of an urban impaired stream, shall meet the General Standards to the extent practicable as determined through consultation with and agreement by DEP, except that redevelopment of existing impervious area may qualify for the exception in Section 4(B)(3)(e).
- (2) A linear portion of a project associated with an existing travel corridor constructed prior to July 19, 2007,¹ and not located in either the direct watershed of a lake most at risk from new development or in the watershed of an urban impaired stream, shall not be required to meet the General Standards.
- (3) A linear portion of a project that is not associated with an existing travel corridor shall meet the General Standards to the extent practicable as determined through consultation with and agreement by DEP.
- (4) A non-linear portion of a project shall meet the General Standards, except that redevelopment of existing impervious area may qualify for the exception in Section 4(B)(3)(e) of Chapter 500.

C. Phosphorus standard. Projects triggering the Phosphorus standard shall instead apply the General Standards in accordance with Section 3(B) of this MOA.

¹ July 19, 2007 is the date the first MOA with this language became effective.

- D. Urban impaired stream standard. A linear or non-linear portion of a project that is not associated with an existing travel corridor, is located within the watershed of an urban impaired stream, and triggers the Urban Impaired Stream Standard, shall meet the Urban Impaired Stream Standard in Chapter 500, Section 4(D), to the extent practicable as determined through consultation with and agreement by DEP. MaineDOT and MTA may use mitigation credit measures within the same watershed as that portion of a project in order meet the requirements of Chapter 500, Section 4(D).
- E. Flooding standard. For a state transportation system project that triggers the thresholds of the Flooding Standard, MaineDOT and MTA shall apply design and engineering measures to the extent practicable such that project drainage avoids adverse impacts to offsite property resulting from project-related peak flow.

The following additional requirements of Chapter 500 shall be met through review, reporting and recordkeeping undertaken by MaineDOT and MTA pursuant to Section 4 of this MOA: project notification and submittal requirements of Ch. 500(7)(B), Ch. 500(7)(E)(1-6), Ch. 500(8)(C)(1 through 3), Ch. 500(8)(D)(1-6), and Ch. 500(8)(E)(1-2); the pre-application meeting requirements of Ch. 500(8)(A); the recording requirements of Ch. 500(11); and the re-certification requirements of Ch. 500, Appendix B(4). DEP agrees that MaineDOT and MTA have demonstrated the qualifications of their respective staff to perform the maintenance activities required pursuant to Ch. 500, Appendix (B)(3) and therefore, meet the intent of that requirement without contracting with third-parties.

4. Interagency Review.

As part of the annual Interagency Review MaineDOT and MTA agree to provide DEP with a list of all projects started in the 12 months since the last Interagency Review meeting and a list of projects anticipated for the next 12 months. The DEP, MaineDOT

and MTA also agree to hold interagency meetings as necessary, but at least annually, to identify, discuss and resolve any issues which may have arisen regarding interpretation and implementation of the MOA. MaineDOT and MTA each shall keep records of their projects that would otherwise trigger the stormwater rules requirements, including: the project location; a description of other work done in the watershed; a description of any alternative stormwater management measures installed and their relative performance, if known; a description of each instance where, pursuant to Section 3(B)(1) and 3(D) of this MOA, the General Standards were not fully applied because it was determined to not be practicable to do so and the extent to which the General Standards were not met; a list of facilities or state transportation systems that have undergone site inspections; and a list of staff or designees who provided oversight with respect to erosion and sedimentation control and stormwater control. As part of this annual review MaineDOT and MTA shall provide DEP with a report on maintenance surveys and activities.

Dated: 10/31/07

By: David A. Littell
David A. Littell, Commissioner
Maine Department of Environmental
Protection

Dated: 11/06/07

By: Kathy Leller, for
David Cole, Commissioner
Maine Department of Transportation

Dated: 11/14/07

By: Gerard P. Conley, Sr.
Gerard P. Conley, Sr., Chairman
Maine Turnpike Authority