



**DEPARTMENT OF THE ARMY**  
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS  
696 VIRGINIA ROAD  
CONCORD, MASSACHUSETTS 01742-2751

REPLY TO  
ATTENTION OF

Regulatory Division  
CENAE-R-51

January 4, 2012

CORPS APPLICATION#: NAE-2010-02347

Steve Wallace  
TRC  
400 Southborough Drive  
South Portland, Maine 04106

Dear Mr. Wallace:

This concerns your client's application for a Department of the Army permit to place fill below the ordinary high water line of an unnamed stream and in adjacent freshwater wetlands at Searsport, Maine in order to develop a liquid propane storage and off loading facility on Mack Point.

We have been studying this proposal to determine whether the work is eligible under our Maine General Permit ("Maine GP"), an abbreviated procedure that attempts to "piggy back" off your application to the Maine Dept. of Environmental Protection ("Maine DEP"). We have not yet determined whether your project is eligible under this program. Therefore no work should be performed until we have made this determination.

The enclosed correspondence was received late in the processing of the application and we continue to receive similar correspondence. It is being forwarded to give you the opportunity to furnish us with your proposed resolution or rebuttal. You may wish to contact the writer directly in an attempt to reach a mutual understanding.

We regret that receipt of these comments has delayed our ability to finalize the general permit decision. As you know, most GP applications generate very little public comment, but in this case a number of legitimate public interest issues have been raised. Corps regulations require us to give serious consideration to a project's impact on the public interest.

As a result of our review of the responses received and the administrative record, the following specific information is required in addition to your rebutting comments before making a final decision on your application:

- a. Please summarize the status of the Town of Searsport's review of the project. It would be of great assistance to understand the scope of their review and the key factors they consider under their ordinance. Might there be issues raised in the public comments that are clearly and more appropriately under the purview of the town? How, if at all, will the town consider issues like noise, visual impact, height of the tank, traffic, safety, fire protection, effect on local roads and municipal infrastructure, lighting, and odors?
- b. The Maine DEP has approved the project. Feel free to opine on the thoroughness of their consideration of the issues raised in the public comments.

c. Few applicants do a good job of identifying the benefits of their development projects. Clearly many citizens believe the project will have a largely negative impact on the town and the local economy. This is the applicant's opportunity to reiterate the direct and indirect economic benefits to the community and the region from the proposed project.

d. The form letter and several other letters speak to the industrialization of Mack Point. The Corps recognizes that Mack Point is already heavily industrialized and has been extensively developed for various commercial uses since the early 1900's. If the information is available, it could be useful to provide a breakdown of the relative percent of Mack Point that is developed vs. undeveloped, how long the undeveloped lands have remained so, what percent of those lands the proposed development will "industrialize", and what the applicant's anticipation is of secondary development that might occur as a result of their project. For example, although the applicant has made it clear that the development site will only accommodate one tank, is it logical to assume that nearby lands could support an expanded tank farm? Might they support some related development (based on the applicant's experience at other locations in the U.S.)? Perhaps the town might be of some assistance in addressing these questions (relative to their comprehensive plan).

e. We do not need you to respond to the allegations that the Corps constructed the Sears Island causeway. As you know, that is not true.

f. There is reference in one letter to a concerned citizens' meeting at the Belfast Public Library regarding the tank. Did you or the applicant attend? Please summarize just what the extent of public outreach has been for the project (by the applicant).

g. Many letters focus on the impact of increased truck traffic on the community (noise, traffic congestion, road degradation, etc). Please verify the number of trucks anticipated and put this increase into perspective with existing traffic volume and composition in the community. Will propane vehicles follow the same traffic patterns and travel the same time of day that existing traffic does? What is the applicant's response to allegations that municipal roads will be degraded at a higher rate by propane truck traffic?

h. We are in receipt of positive comments from the local water district. Are there similar comments from the local fire departments? Drawing comparisons to the past LNG proposals in Washington County, those applicants established strong partnerships with the local fire and emergency response departments and made serious financial commitments to improve emergency response capabilities in the community. Has your client done something similar? What is the current state of preparedness of these departments for a proposal such as yours? Please respond to the specific comment about how a loss of power might affect the safety and integrity of the proposed tank.

i. The form letter and several other letters speak to the value of intertidal and sub-tidal resources within Long Cove and around Sears Island. The Corps recognizes that the developer has repeatedly indicated that they have no plans to develop east of the rail line. Please verify however that the project is not expected to result in new contaminant discharges to Long Cove. Specifically, will there be any contaminant discharges from LPG vessels during off loading; will process water from the facility or the vessels be discharged to the cove; will a catastrophic

rupture of the tank be fully contained and prevented from discharging to the cove; will there be any discharge of construction related turbidity to the cove; and will higher volumes of stormwater be discharged to the cove?

j. A number of citizens allege that the wetland delineation is inaccurate. I've enclosed a copy of a report by Phillips Eco-Services that was apparently contracted by project opponents. Although neither the Corps nor the DEP identified any glaring errors when we conducted a site walk, we did not walk the entire wetland boundary. A shortcoming of our delineation guidance is that relatively few dataforms are required to substantiate a wetland delineation. I suggest that you and Cole Peters review the comments and Don Phillips' findings, and expand upon the delineation report. The area of contention appears to be at the northern and northwestern end of the parcel where hydrophytic vegetation appears more prevalent than the boundary indicates. I am not requesting a re-delineation at this time, only more detail on your existing findings. The function and value assessment is also questioned by some opponents.

k. A number of opponents make reference to the seismic fault that reportedly runs through the area. It was reportedly active as recently as last month. Presumably if this was an issue in light of numerous industry standards and federal/state regulations, your client would not have chosen the site. But for the record, please comment on the issue.

l. Security issues are a primary focus of the Coast Guard in their Waterway Suitability Report and Letter of Recommendation. However their primary focus may well be vessels in transit and docked at the terminal. Please summarize the security measures that are required to be implemented at the tank facility and truck/train loading sites.

m. Several project opponents have apparently banded together for a court challenge of the DEP permit. What is the status of this challenge? Presumably you are aware that if the DEP permit is overturned then any Corps permit decision is no longer valid. And since the Corps is relying on the DEP's review of many of the same public interest concerns, we are keenly interested in the status of the court challenge.

n. One citizen commented that his and other boats at anchor in Searsport Harbor could be effectively blocked from leaving because of the exclusion zone around an LPG vessel at anchor pending docking at the marine terminal. Although this is an issue being considered by the Coast Guard, please comment on his allegation that LPG vessels could be at anchor for extended periods due to tidal restrictions at the terminal pier. The Corps is not aware of such restrictions.

o. What is the current status of your air license from the Maine DEP?

p. What is the current disposition of the proposed moratorium on tanks in Searsport? Much like with the DEP decision, if local approval could not be obtained, the Corps would have no choice but to administratively deny a permit.

q. A number of opponents highlight the fact that the developer will "clear cut" the entire site and that all natural buffers will be eliminated. For the record, please clarify the actions that the applicant proposes to minimize the project's direct and indirect visual impact.

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I look forward to hearing from you. If you have any questions concerning this matter, please contact me at 207-623-8367 at our Manchester, Maine Project Office.

Sincerely,

A handwritten signature in black ink, appearing to be 'JC' or 'Jay L. Clement'.

Jay L. Clement  
Senior Project Manager  
Maine Project Office

Enclosures