

June 2014 Emails between FOPB & DEP re: GAC Chemical eroding shoreline wastes.
(Followup to May 16, 2014, meeting of Huber, Miller and Janna Wood, MDEP industrial outfall inspector, Bangor DEP office.)

6/2/14 Email From Ron Huber, Friends of Penobscot Bay, follow up to May 16, 2014 meeting in Bangor, between Ron Huber, FOPB,
6/3/14 Reply by Susanne Miller, Eastern Maine regional director MDEP and

From: Ron Huber <coastwatch@gmail.com>

Date: Mon, Jun 2, 2014 at 3:25 PM

Subject: Friends of Penobscot Bay- memo from our meeting in Bangor

To: "Miller, Susanne" <Susanne.Miller@maine.gov>, "Wood, Jana" <Jana.Wood@maine.gov>

Hi Susanne.

I believe that you were going to send me a note summarizing our May 16th meeting and the way to move forward concerning the eroding wastes of Kidder Point. I think you said

1. Ownership

GAC Chemical owns the intertidal flats out to the low tide line, as described in its deed

2. Uncontrolled Hazardous Waste. At our meeting Jana observed that the situation along the southern site of the peninsula fits the definition of an uncontrolled hazardous waste site -well documented sulfuric acid spills leaching their way through mixed already highly acidic fertilizer and alum production industry wastes, mixed with demolition debris from discontinued processes onsite. As DEP records show the waste is deposited atop a layer of marine clay and travels by surface aquifer down into the beach sediments and intertidal flats. We consider that this site fits the definition of an "uncontrolled hazardous waste site". I recall that Jana Wood concurred with that. Do you concur in this? If not, why not?

3. Jurisdiction The town of Searsport has primary jurisdiction over this dumping of wastes into the intertidal flats, rather than DEP. This pursuant to 12 MRSA 573. Public trust rights in intertidal land, which gives municipalities the police power to bar "the depositing of any refuse or waste on intertidal land or in the water covering intertidal land;" I understand that the addition of "recreation" to public trust rights of fishing fowling & navigation, as asserted by this law, has been struck down by the Maine Supreme judicial court (the addition of "recreation" to the fishing fowling & navigation public trust rights is what the Court had disagreement with.

David Colter and a new GAC erosion control initiative. We contacted David following our meeting. His reply repeats the promises made (and broken) in the past, but continues to shy away from any date certain for any erosion control work. and from consideration of the content of the wastes eroding off the company site as anything but the bland non-definition

term "fill". We get the sense once again that paying to repair the health of the harbor from the impact of this industrial runoff is quite secondary to GAC's profitmaking priorities. We note with disappointment a continued assertion by GAC that MDEP supports inaction on controlling and remediating these hazardous wastes, and is comfortable with guessing that things are probably OK, hence shouldn't be looked into too closely. Do you agree with that anti-precautionary policy?

Susanne I look forward to your responses on the above but also your meeting notes, so that we are on the same page, and can resolve some murky bits of unclarity.

Best wishes

Ron

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From Miller, Susanne <Susanne.Miller@maine.gov>
to: "coastwatch@gmail.com" <coastwatch@gmail.com>, "Wood, Jana" <Jana.Wood@maine.gov>
date: Tue, Jun 3, 2014 at 5:20 PM
subject:Re: Friends of Penobscot Bay- memo from our meeting in Bangor

Ron:

I am in the field until Thursday and am not able to respond in depth.

Essentially I have a different interpretation of what was said and agreed/disagreed upon in our meeting in Bangor, which appears to be an ongoing pattern between us.

Moving forward all information requests to the Department will need to go through the FOAA process. I outlined in a previous email how to conduct a FOAA request and whom to contact.

If you have questions about the FOAA process I'm happy to assist.

Also, you should be aware that the Regional Director position is not an appointed position.

Best,

Susanne