



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Bureau of Land Resources
 17 State House Station
 Augusta, Maine 04333
 Telephone: (207) 287-7688

Notice of Violation

PART I: GENERAL INFORMATION

ALLEGED VIOLATOR'S NAME:

**Maine School Administrative District #28
 (MSAD #28)**

Ledgewood Construction

Jake Barbour Inc.

DOCKET NUMBER:

2018-262-L

ALLEGED VIOLATOR'S MAILING ADDRESS:

MSAD #28

7 Lions Lane

Camden, ME 04843

Ledgewood Construction

27 Main Street

South Portland, ME 04106

Jake Barbour Inc.

P.O. Box 1178

Rockland, ME 04841

DATE ISSUED:

November 30, 2018

PHYSICAL LOCATION OF VIOLATIONS:

34 Knowlton Street, Camden

CERTIFIED MAIL NUMBER:

7006 2150 0005 6942 9541

7006 2150 0005 6942 9565

7006 2150 0005 6942 9558

DISTRIBUTION:

Case File

Enforcement Director

AG's Office

EPA

Other: _____

POINT OF CONTACT (IF DIFFERENT FROM ALLEGED VIOLATOR):	TELEPHONE NUMBER:
MSAD #28: Maria Libby, Superintendent Mary Beth Van Keuren, P.E.	207-236-3358 207-273-3323
Ledgewood Construction: Steve Claffie Peter Reynolds	207-767-1866 207-767-1866
Jake Barbour Inc.: Jake Barbour Carmel Ouellet	207-594-5552 207-594-5552

PART II: INFORMATION CONCERNING THE ALLEGED VIOLATION

YOU OR YOUR COMPANY IS BELIEVED TO BE RESPONSIBLE FOR THE FOLLOWING VIOLATION(S) OF MAINE’S ENVIRONMENTAL LAWS, RULES, OR DEPARTMENT ORDERS.

SUMMARY OF FACTS ALLEGED AS BASIS FOR VIOLATION(S):

On November 27, 2018, Department staff conducted an on-site investigation at 34 Knowlton Street in Camden, identified as Lot 59 on Map 120 of the municipality’s tax maps. The investigation was conducted in response to a complaint received by the Department. The project site is the location of the Camden-Rockport Middle School which is currently under redevelopment. The redevelopment was granted approval in Department Order L-27850-NI-A-N, issued pursuant to Maine’s *Storm Water Management Law*, 38 M.R.S. § 420-D, dated April 19, 2018.

During the investigation, staff observed the discharge of a pollutant, namely soil, off-site and into a “river, stream or brook” (Megunticook River) and adjacent “freshwater wetland” as defined by the *Natural Resources Protection Act* (NRPA), 38 M.R.S. §§ 480-B(9) and B(4), respectively. A “river, stream or brook” and “freshwater wetland” are defined as “protected natural resources” pursuant to the NRPA, 38 M.R.S. § 480-B(8), and as “waters of the state” pursuant to the *Protection and Improvement of Waters Act*, 38 M.R.S. § 361-A(7).

After review, staff determined that the erosion and sedimentation control plan approved by the Department in Order L-27850-NI-A-N was not adequately followed by the licensee (MSAD #28), Ledgewood Construction and Jake Barbour Inc. Erosion and sedimentation controls on-site were not adequate or timely to prevent an unreasonable amount of erosion and sedimentation from occurring, and the activities of the applicant or those of its agents resulted in noticeable erosion of soils on the site during construction, which were observed discharging off-site and into protected natural resources.

LIST SPECIFIC VIOLATIONS BY APPLYING FACTS TO SPECIFIC STATUTE(S), RULE(S), OR ORDER(S) VIOLATED:

38 M.R.S. § 420-C:

A person who conducts, or causes to be conducted, an activity that involves filling, displacing or exposing soil or other earthen materials shall take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource as defined in section 480-B. Erosion control measures must be in place before the activity begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken and the site must be maintained to prevent unreasonable erosion and sedimentation.

By conducting or causing to be conducted an activity that involves filling, displacing or exposing soil or other earthen materials without taking adequate measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource, MSAD #28, Ledgewood Construction and Jake Barbour Inc. violated the *Erosion and Sedimentation Control Law*, 38 M.R.S. § 420-C.

38 M.R.S. § 420-D(8) states in relevant part:

Any activity that takes place contrary to the provisions of a valid permit issued under this article or without a permit having been issued for that activity is a violation of this article...

Department Order L-27850-NI-A-N, Condition 2 states:

In addition to any specific erosion control measures described in this order, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.

By failing to follow the erosion and sedimentation control plan submitted and approved in Department Order L-27850-NI-A-N, MSAD #28, Ledgewood Construction and Jake Barbour Inc. violated the Condition 2 of Department Order L-27850-NI-A-N and the *Stormwater Management Law*, 38 M.R.S. 420-D(8).

38 M.R.S. § 361-A(4-A):

"Pollutant" means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

38 M.R.S. § 361-A(7).

"Waters of the State" means any and all surface and subsurface waters that are contained within, flow through, or under or border upon this State or any portion of the State, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State, but not excluding waters susceptible to use in interstate or foreign commerce, or whose use, degradation or destruction would affect interstate or foreign commerce.

38 M.R.S. § 413

No person may directly or indirectly discharge or cause to be discharged any pollutant without first obtaining a license therefor from the department.

By discharging a pollutant, namely soil, to waters of the state without first obtaining a permit from the Department, MSAD #28, Ledgewood Construction and Jake Barbour Inc. violated the *Protection and Improvement of Waters Act*, 38 M.R.S. § 413.

REQUESTED CORRECTIVE ACTION(S):

IMMEDIATELY install and maintain adequate temporary erosion and sedimentation controls in accordance with the plans approved in Department Order L-27850-NI-A-N and the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices (Maine ESC Manual)*. In addition, create and maintain a daily erosion and sedimentation control maintenance log, with site photographs, to be made available at the request of the Department.

Provide the Department within three (3) days of receipt of this NOV an action plan to implement adequate erosion and sedimentation control measures and notify the Department within five (5) days of completion of the plan.

TIMELY COOPERATION ON THE CORRECTIVE ACTIONS REQUESTED IN THIS NOV, AND CONTACTING THE CASE MANAGER BY PHONE OR IN WRITING WITHIN 3 DAYS OF RECEIVING THIS NOV ARE TWO SIGNIFICANT FACTORS THAT MAY AFFECT WHETHER, OR THE EXTENT TO WHICH, THE DEPARTMENT PURSUES FURTHER ENFORCEMENT ACTION. THE DEPARTMENT OFFERS TECHNICAL ASSISTANCE WHICH MAY ASSIST YOU IN RETURNING TO COMPLIANCE AND AVOIDING FURTHER ENFORCEMENT ACTION. IF YOU REQUIRE TECHNICAL ASSISTANCE CONCERNING THIS NOTICE OF VIOLATION PLEASE CONTACT THE CASE MANAGER IDENTIFIED BELOW.

PART III: DEPARTMENT ENFORCEMENT CONTACT

ENFORCEMENT CASE MANAGER:

TELEPHONE NUMBER:

Dustin Dorr

207-215-4525

State of Maine, Department of Environmental Protection

By: _____