



MASE Newsletter

MAINE ASSOCIATION OF SITE EVALUATORS

January, 2009

2009 MASE Technical Seminar and Annual Business Meeting Tuesday, February 24, 2009

The 2009 MASE Annual Meeting and Technical Sessions have been scheduled for Tuesday, February 24, 2009 at the Millennium Convention Center, 416 Oxbow Road, Palmyra. Vendor displays and check-in for the day's festivities will start at 8 AM, and the technical presentations will begin at 9 AM. The Meeting Registration /Annual Membership Application Form can be found on page 3 of the newsletter. The registration fee includes a mouth watering banquet lunch. Please register by February 6 to reserve a meal. In addition, dozens of fabulous door prizes will be awarded throughout the day. The Millennium has assured us that there will be ample parking for the meeting.

This year's presentation will feature Jeff Twitchell from the firm Air & Water Quality Inc. Mike will discuss drinking water treatment equipment and its impacts on septic systems. Rich Baker from the Maine Department of Environmental Protection will then give an update on Shoreland Zoning Rule changes and Natural Resource Protection Act issues. The sessions will culminate with an overview and discussion of significant changes to the Subsurface Wastewater Disposal Rules which go into effect this season. During the business meeting a new slate of officers will be elected to serve on the MASE board for the next twelve months, and issues that affect the organization and site evaluators will be discussed.

Attendance at the annual meeting qualifies for 6 Professional Development Hours(PDH) which can be applied toward the professional development requirements for Site Evaluator's license renewal. You must be present for the entire day to receive a certificate.

The annual meeting is a great opportunity to keep up to date, enjoy a delicious meal, and chat with your friends and colleagues. We hope to see you there!



The 2008 meeting was both mesmerizing and mouth-watering.

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Message From MASE President Dave Marceau



As president you are asked to lead the group you represent. This job allows you to propose changes that you feel may be necessary to improve the group. While I have been president I have advocated for ideas that will improve the quality of septic designs in the State of Maine. I have also worked to provide more opportunity for site evaluators, and those wanting to become site evaluators, to expand their knowledge related to septic systems. Over this past year the executive board decided to hire Clough Toppan to act as our advocate for changes that we thought were needed with the subsurface code. Without Clough's efforts the process would have progressed considerably slower and may not have been completed this year. I believe most of the proposed changes to the code will improve the quality of septic designs. The board also decided to hire Judith Harvie to monitor bills that come through the legislature so that we will

be more informed about proposed laws that affect site evaluators.

In addition, I have attempted to provide more information in our newsletter more often. The executive board has also talked about having an apprentice program so that new people coming into the profession can be properly trained and quality jobs will be created in the State of Maine. A manufacturer of a wastewater product has approached me (without any solicitation on my part) with a substantial amount of money to provide training for site evaluators and people who want to become site evaluators. So, I am hopeful that you will see more opportunities to improve your skills in the future. Any thoughts you may have on the types of training we should provide and who should do the training would be very helpful.

I know the state of the economy is weighing heavily on everyone's mind. Things are slow for everybody I know. However, I've lived long enough to know that things cycle and we are in a low point in the cycle. When people get their confidence back things will improve. The trick is to survive until things do get better and look at every decision you make (related to septic designs) in terms of your clients. In other words ask yourself "how does what I'm doing provide a better product as cheaply as possible". Mind you I'm not the brightest guy you will ever meet, but this philosophy has allowed me to survive in this business for over 20 years. Keep the faith and may god bless.



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January, 2009 Newsletter

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and other publication items to:

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2008 MASE Board Officers

David Marceau.....President
Ken Stratton Vice President
Gary Fullerton..... Treasurer
Richard Green Secretary
Corinne LearyEx Officio
Daniel Locke..... Director
William O'Connor Director
Dale Knapp Director

Check the MASE Website for Updates! www.mainese.com



MASE 2009 Technical Seminar and Annual Business Meeting

Tuesday, February 24, 2009
Millennium Convention Center
416 Oxbow Road, Palmyra, Maine

AGENDA

- 8:00 - 9:00** **Registration, Coffee, and Vendor/Sponsors Displays**
9:00 - 10:00 **Effect of Water Treatment Systems on Septic Systems –**
 Jeff Twitchell, Air & Water Quality
Air & Water Quality, Inc. was founded in 1989 by Mike Gelberg and Jeff Twitchell. Their goal was to start an air and water quality testing and mitigation company that would provide the highest levels of quality in both installation and service of environmental treatment systems.
- 10:00 - 10:15** **Break**
10:15-11:00 **Shoreland Zoning Changes – Richard Baker, Maine DEP**
Rich will discuss changes in the Shoreland Zoning rules that will be adopted by all municipalities no later than July 1, 2009.
- 11:00-11:30** **University of Maine Soil Judging Team**
The team will present a slide show of their activities from the regional Soil Judging contest in Pennsylvania.
- 11:30 - 1:00** **Lunch and Vendor Displays – Beef tips, stuffed chicken breast, garlic mashed potato, rice pilaf, buttered corn, tossed salad, yeast rolls, & dessert.**
- 1:00-1:45** **Annual MASE Business Meeting: Report from the Board of Directors, Committee Reports, Election of New Board Members, Items from the Floor.**
- 1:45 – end** **Panel Discussion - Changes in the Subsurface Wastewater Disposal Rules**
Panel members include Russ Martin, Members of the Task Force and Experienced Site Evaluators.

(6.0 professional development hours will be given to all attendees)

***Door Prizes from Several Vendors Will Be Awarded To Winners Present!**

Driving Directions to Millennium

FROM BANGOR

Distance: About 30 Miles
Travel Time: About 30 Minutes.

Take - **I-95 South**
Take - **EXIT 157-** toward US-2 / Newport / Skowhegan.
Turn **LEFT** onto **ME-Route 100 & 11.**
Drive **0.6 miles** to 416 Oxbow Rd.

We're on the right, part way up the hill. (Pale yellow building.)
Sign is on the building.

FROM WATERVILLE

Distance: About 30 Miles
Travel Time: About 30 Minutes

Take - **I-95 North**
Take - **EXIT 157-** toward Route 7 / Newport / Dexter.
Turn **Right** onto **ME-Route 100 & 11.**
Drive **0.3 miles** to 416 Oxbow Rd.

We're on the right, part way up the hill. (Pale yellow building.)
Sign is on the building.



MAINE ASSOCIATION OF SITE EVALUATORS

2009 Membership Form & Annual Meeting Registration

MASE NEEDS YOU!

Your membership is important and our budget depends on your dues! All MASE memberships expire in February. You can join now and be assured of another year of representation of your interests by MASE. We are working to keep license fees down, mandates and regulations reasonable, host quality field seminars, interesting winter seminars & a pertinent newsletter. Please work with us!

(Please complete a separate form for each individual)

- Regular Membership** \$25
(Maine Licensed Site Evaluator)
- or
- Associate Membership** \$15
(Unlicensed individuals with an interest in
the goals and purpose of the Association)
- Annual Meeting – Tuesday, February 24, 2009** Member: \$20
(includes lunch) or Non-member: \$30
* Please register by February 6, 2009 to reserve a meal

Make Checks Payable to: MASE

Mail To: Gary M. Fullerton, Treasurer
104 Millturn Road
Limington, ME 04049 info@mainese.com

Total Enclosed: _____

Name: _____ License Number: _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____



MAINE ASSOCIATION OF SITE EVALUATORS

TREASURER'S REPORT 2008

Cash on Hand as of 12/31/07	\$ 5,025.63
Fidelity Mutual Fund as of 12/31/07	<u>\$ 13,713.64</u>
Total Assets as of 12/31/07	\$ 18,739.27

Income

Membership Dues/ Winter Meeting	\$ 11,015.00
Hats	\$ 60.00
18 th Annual Golf Tournament	\$ 630.00
MAPSS Donation (Fall Seminar)	\$ 200.00
Fall Seminar	\$ 60.00

Expenses

Millenium C.C. (Winter Meeting)	\$ 4,661.00
Fall Seminar	\$ 1,790.87
Envirothon	\$ 1,000.00
Winter Meeting (copies, guest speaker expenses, gift)	\$ 901.85
18 th Annual Golf Tournament	\$ 834.00
Architects/ Engineers Task Force	\$ 700.00
Newsletter	\$ 505.60
Website	\$ 383.89
8' Portable Screen	\$ 377.99
General Liability Insurance	\$ 350.00
Gift to UMaine Soil Judging Team	\$ 200.00
MASE stickers	\$ 194.47
Postage	\$ 135.25
Laptop/Projector Insurance	\$ 105.00
Gift to Old South Church (Dorothy Martin)	\$ 100.00
Reid State Park Seminar (Beverages)	\$ 56.44
Miscellaneous	\$ 45.00
Corporation Filing	\$ 35.00

Period of 12/31/07-12/31/08	Total Income:	\$ 11,965.00
	-Total Expenses:	<u>\$ 12,376.36</u>
		\$ - 411.36

Cash on Hand as of 12/31/08	\$ 4,614.27
Fidelity Mutual Fund Balance as of 12/31/08	<u>\$ 7,289.43</u>
(- \$2,520.00 for Consulting Services)	
(- \$3,904.21 from 12/31/07)	

Total Assets as of 12/31/08	\$ 11,903.70
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Vernal Pools: One Consultant's Perspective

by David Marceau

Site evaluators these days are being asked more and more to do things that are getting further and further away from the concept of designing a septic system. One example of this is being able to identify vernal pools. Vernal pools are important features for site evaluators to identify because the buffers around them can be very highly regulated in some circumstances. In Maine, the State of Maine DEP regulates "significant vernal pools" which include buffers. The DEP calls them critical terrestrial habitats. In some cases the U.S. Army Corps of Engineers(ACOE) regulates vernal pools and a larger buffer. Thus, if a site evaluator does not make it clear to his/her client that the work that is being done does not include identifying vernal pools he/she could be liable for not addressing this issue. If you make no explicit claim to address DEP related issues for your clients that might cover you for now. However, the current proposal for the Subsurface Code (available at <http://www.maine.gov/dhhs/eng/plumb/about.htm>) (see definitions in Chapter 3 and Table 700.1 for setbacks) includes a 25 foot setback for fill extensions to "significant vernal pools" among other things. That ties system locations directly to the need to identify significant vernal pools and awareness of the fact that a significant vernal pool is not only the pool itself, but the critical terrestrial habitat surrounding the pool as well. As you will see in the following paragraphs, this is broad topic.

The actual State law that regulates significant vernal pools took effect on September 1, 2007. However, because the process of identifying significant vernal pools requires that egg masses be counted in April and May the real work performed to identify these pools did not take place for the first time until this past spring. The law that regulates significant vernal pools is the Natural Resource Protection Act which is administered by the State of Maine, DEP, Natural Resource Protection Act. More specifically, significant vernal pools are regulated by the Significant Wildlife Habitat Rules which is Chapter 335, online at <http://www.maine.gov/sos/cec/rules/06/096/096c335.doc>.

For those of you who are not familiar with the process of identifying a significant vernal pool it is cumbersome. The place to start is to determine whether or not you think there are any potential vernal pools within or adjacent to the area in which you want to develop. Regulated activities include filling, disturbing soil, removing vegetation, and constructing or modifying permanent structures. Keep in mind that development includes changing a wooded area to grass, i.e. septic systems. The DEP has established a 250 foot "critical terrestrial habitat" buffer around the pool edge whereas the U. S. Army Corps has discretionary authority to require a 500 foot buffer (or more) if they get involved with wetland impacts. The ACOE also has different standards for identifying vernal pools and may enforce other regulations that vary from the DEP.



Potential vernal pools are any area which you think might contain enough water in a shallow depression to allow for wood frogs, spotted salamander, blue-spotted salamander or fairy shrimp to reproduce (the definition also includes rare and endangered species but these are usually not a concern). My experience in observing vernal pools for the last five years or so has taught me that generally you need to have a minimum of water 12 inches or so deep for it to have potential to be significant. Otherwise the pool may allow amphibians to breed but the egg masses will not persist for long enough to allow them to develop into adults. Typically, the eggs are laid in April or May and metamorphose into adults by July or August. Running water may provide habitat for fish and moves too quickly to allow the type of amphibians we are concerned about to breed, so streams do not qualify as vernal pool habitat.

Once you have identified potential vernal pools then you need to determine if any are significant based upon the standards within Chapter 335. This essentially entails making observations of the potential vernal pools for amphibian egg masses or fairy shrimp during the time frame the DEP has established in your region. The northern region is anything north of the line extending from Fryeburg to Auburn to Skowhegan to Bangor to Calais (Wood Frogs May 1 – May 21 and Spotted and Blue Spotted Salamanders May 10 - May 31) while anything south of that line is considered to be within the southern region (Wood Frogs April 7 – April 21 and Spotted and Blue Spotted Salamanders April 20 – May 21). In looking at the dates you might say what if things are colder or warmer than normal and the apparent observation period is obviously off. For example, I know of a significant vernal pool in Searsmont (the town I live in) that was frozen solid until April 21 last year. Obviously, I could not observe wood frog egg masses within that vernal pool during the time frame the rules state (April 7 – April 21). When I called the DEP to ask the question they said the dates are guidelines and are not “firm”. When I asked how long the time frame for observations could or should be extended they said “check the web site”. Also, anyone who has worked along the coast knows that the ocean has a large effect on the warming and cooling trends so islands and peninsulas seem to be more like the northern region rather than the southern region, but, the rules don’t say that. So, there are numerous weather related issues that need to be worked out in order for projects to move forward.

Regarding the identification of amphibian egg masses there are problems as well. The presence of 40 or more wood frog egg masses, 20 or more spotted salamander egg masses or 10 or more blue-spotted egg masses make a vernal pool significant by DEP rules. Again the counting seems easy but wood frogs tend to lay their egg masses on coarse woody debris or emergent grasses in large clumps which can make deciphering between masses a problem. Some people say that if you get to the point where that is a problem the pool is significant anyway. I don’t agree; 40 egg masses is a lot and I have seen times when they are all laid in one small location within the pool.

In addition, deciphering between spotted salamander egg masses and blue-spotted egg masses is not easy. Spotted salamander egg masses are laid in clusters of 30 to 250, have a rather thick membrane around their eggs, and the masses are very firm (as determined by squeezing).



Wood frog egg masses somewhat clumped together. Note the lack of thick membrane surrounding them.



Spotted Salamander Egg Mass. Note the thick, firm membrane surrounding the eggs.

Blue-spotted salamander eggs occur in masses of 1 to 30, are “loose”, and have a thinner membrane around them. The problem here occurs when you have about 30 eggs in a mass and the mass has decayed a bit so it is somewhat loose, and/or the individual eggs with the thickness of their membranes look more like blue-spotted than spotted. There are some vernal pools that I have been observing for 5 years where I have seen many adult blue-spotted salamanders in yet have never identified any egg masses that look like the blue-spotted egg masses shown in the reference manuals. Furthermore, there are few pictures in any manual that clearly depict the characteristics of amphibian egg masses. All of this leads me to believe that we don’t know as much as we think we know and the characteristics of egg masses are not well understood.

Another difficult part of the process is deciding whether to fill out the forms (more later on this), filling out the forms, then completing the process that you need to in order to document whether a vernal pool is significant or not. The actual forms have been compiled by and need to be submitted to the Maine Department of Inland Fisheries and Wildlife (MEDIFW) not the DEP as you might expect. This is because the DIFW are the people who are the experts regarding vernal pools not the DEP. This is a problem because the DIFW are not the regulators (as the DEP are) but are “advisory” to the DEP. Thus, the DIFW has no stated time frame for action to be taken on any request whereas the DEP has specific time frames in which they need to act.

Also, the DIFW has said they will not make a determination on the significance of vernal pools without a minimum of two separate observations being recorded during the time frame that eggs are present. To a degree this is understandable given that the two amphibians we must record data for have a somewhat different time frame in which they lay their eggs. However, the DEP rules make no mention of this. The bottom line is that the DEP can, and does, ignore the opinions of the DIFW if they so choose.

In addition to this, submitting the form means that the information goes on a State GIS layer and is documented so that all can see. So, you might think that you should fill out the form and submit it if you want to document the fact that a vernal pool is not significant. However, you need to remember that the ACOE has no threshold for significance like the DEP does and thus they could look at the DEP information and potentially take jurisdiction over something they otherwise would not have known anything about. In my opinion, this has the potential to be a serious liability issue for site evaluators.

My bet is that either you stopped reading this a few paragraphs ago or you are saying to yourself “why to heck is this Marceau guy so wound up about these rules”? The reason is due to the large buffers (referred to as “critical terrestrial habitat” by the DEP) that surround these habitats and what you can and can’t do within them. Basically, the DEP can regulate impacts to anything within 325 feet of a documented significant vernal pool. The first 250 feet is considered to be the “critical terrestrial habitat” while the 75 feet beyond that is considered to be “adjacent” if that area contains wetlands. The DEP allows 25 percent of the critical terrestrial habitat to be disturbed through a permit by rule process. However, this disturbance cannot be in a wetland because that wetland would be considered to be a wetland of special significance. Furthermore, the current proposal to the subsurface code requires a 25 foot setback to the 250 foot critical terrestrial habitat buffer around a significant vernal pool.

The location of property lines in relation to the pools is very important because the DEP tells us that you are not required to investigate properties you do not own, and, the 25 percent critical terrestrial habitat is based upon what you own, not the entire habitat of the pool. If you owned the entire area around a significant vernal pool the buffer would be nearly five acres (assuming the pool is very small). If the property line runs through the buffer the area you would be required to investigate could be significantly less.

Based upon my contacts with other consultants, lawyers, the DEP and land owners it seems to me that most people are taking the “don’t ask don’t tell” approach. This is understandable given that most towns do not have any vernal pool regulations, making an accurate determination may take 9 months or more, and dealing with the permit process can be very difficult.

If I had a wish list I would request that some additional indicators be allowed to be used during times of the year that the egg masses are not present so that determinations for significance could be made year round. These could include such things as the presence of the tadpoles and larvae of the wood frogs and salamanders, water depths, precipitation data and the presence or absence of other critters known to exist in vernal pools. This proposal could allow projects to keep moving without inordinate disruptions. At any rate, it looks like regulations related to vernal pools are here to stay and we as consultants are going to have to negotiate the process.

References:

Malcolm L. Hunter Jr., Aram J. K. Calhoun, and Mark McCollough; *Maine Amphibians and Reptiles*; The University of Maine Press, Orono, Maine 1999.

Leo P. Kenny and Matthew R. Burne; *A Field Guide to the Animals of Vernal Pools*; Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program and Vernal pool Program, Westborough, MA 01581

Copies of the Vernal Pool Data Collection Forms can be found at the end of this article posted on the MASE website www.maine.gov/dep/blwq/docstand/nrpa/vernalpools/data_collection_form.pdf or at the DEP website at http://www.maine.gov/dep/blwq/docstand/nrpa/vernalpools/data_collection_form.pdf.

2008 Field Day

Thursday, September 25, 2008 was the date of the annual MASE/MAPSS Field Day Test Pit Review and Barbecue held at the Hallowell Recreation Area off Winthrop Street. This annual favorite occurs each autumn on the day after the site evaluator field exam. Approximately ten test pits used for the exam were left open so MASE and MAPSS members could brush up on their test pit evaluation skills. After spending a sunny morning going through the pits, MASE members were treated to succulent hamburgers and hot dogs grilled to perfection by board members David Marceau and Gary Fullerton. The feast was followed by a presentation by Doug Coombs who went over the official test pit evaluations as determined by the experts. Discussions about the expert's opinions were animated and at times heated. Although there was some disagreement over the test pit answers, most of the site evaluators concurred about one thing: they were glad that they weren't actually taking the exam!

Besides receiving a free lunch and scintillating test pit discussion, MASE participants in the field day festivities got a chance to catch up with colleagues from all over the state, and received six professional development hours towards their site evaluation license requirement.



MASE News

Annual Business Meeting and Technical Seminar - The MASE annual meeting will be held on Tuesday, February 24, 2009 at the Millennium Convention Center in Palmyra. The meeting will include technical presentations, business meeting, election of new board officers, lunch, and a discussion of proposed changes to the Subsurface Rules. The meeting agenda and registration form are found inside this newsletter. Please register by February 6 to reserve a lunch. For more information contact David Marceau or Gary Fullerton.

Proposed Changes to the Maine Subsurface Wastewater Disposal Rules, Chapter 241 - Several significant changes have been proposed to the Subsurface Rules. Many of these proposed changes are the result of recommendations of the task force that included MASE participation. The comment period on the rules closed on December 31, 2008. The revised rule is expected to become effective during the spring. Contact Russ Martin, Program Director, for more information.

MASE Board Election - New officers will be elected at the upcoming meeting. Ken Stratton is the head of the nominating committee and is putting together a new slate of officers for 2009. MASE members who are interested in volunteering to serve on the MASE board should contact Ken at fernancier@hotmail.com.

Training Opportunities - The Maine Joint Environmental Training Coordinating Committee (JETCC) is holding several training sessions of interest to MASE members and Licensed Site Evaluators. JETCC is Maine's leading resource for education and training of professionals in the wastewater treatment, disposal, and management fields. A listing of upcoming spring sessions can be found on the back page of the newsletter.

MASE hires Judith Harvie as legislative contact - The MASE board has entered into an agreement with Judith Harvie to serve as our legislative contact. Ms. Harvie will provide a monthly summary of all pending legislation of interest to the association. She provides this service to other professional organizations with similar goals and interests to MASE. She experienced in recognizing pertinent issues and comes highly recommended. The MASE membership voted to authorize the hiring of a legislative contact during the February, 2008 meeting. A listing of pending legislation and issues identified by Ms. Harvie will be posted on the MASE website when it becomes available.

UMO Soil Judging Team Results - The UMO Soil Judging Team, led by Ken Stratton, competed in a regional soil judging competition held in Pennsylvania in October and placed fifth out of twelve teams. MASE made a contribution of \$200 toward the cost of travel expenses to attend the competition. Representatives of the team will attend the February Business meeting and make a presentation on the experience.

Opportunity to join YOWA - The Yankee Onsite Wastewater Association(YOWA) is inviting MASE members to join their organization. The organization represents industry interests as the official northeast affiliate of the National Onsite Wastewater Recycling Association (NOWRA). NOWRA is the largest national organization representing all sectors of the onsite/decentralized wastewater industry (i.e., pumpers, contractors, installers, regulators, designers, engineers, manufacturers, and educators). Information on "Why You Should Join YOWA" as well as a membership application is available on their website: www.yankeeonsite.org. They hope you will join the over 5,000 members of NOWRA and its state affiliates. For more information check the website or contact Russ Martin, Director of the Subsurface Wastewater Disposal Program.

MASE Calendar

Meetings, trainings, and other events of interest to MASE Members

January 21, 2009	MASE Board Meeting, Augusta 3:00 p.m.
February 4, 2009	JETTC Training - Ethical and Technical Issues for the Site Evaluator, Portland.
February 6, 2009	Maine Association of Wetland Scientist Vernal Pool Workshop, Augusta.
February 6, 2009	JETTC Training - Ethical and Technical Issues for the Site Evaluator, Brewer.
February 24, 2009	MASE Annual Meeting, Palmyra.
February 26, 2009	JETTC Training - Subsurface Wastewater System Inspection, Wells.
March 5, 2009	JETCC Training - Subsurface Rule Changes, Augusta.
March 10, 2009	Maine Association of Professional Soil Scientists Annual Meeting, Hallowell.
March 11, 2009	JETCC Training - Subsurface Rule Changes, Brewer.
March 18, 2009	JETCC Training - Subsurface Rule Changes, Presque Isle.
March 27, 2009	Maine Association of Wetland Scientists Annual Meeting, Hallowell.
March 31, 2009	JETCC Training - Subsurface Rule Changes, Portland.
April 7, 2009	JETTC Training - Basic Onsite Wastewater System Installation, Farmington.
April 14, 2009	JETTC Training - Basic Onsite Wastewater System Installation, Presque Isle.



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