STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

JASPER WYMAN & SON, INC.	) MAINE POLLUTANT DISCHARGE
MILBRIDGE AND CHERRYFIELD,	) ELIMINATION SYSTEM PERMIT
WASHINGTON COUNTY, MAINE	)
BLUEBERRY PROCESSING	AND
SURFACE WASTEWATER DISPOSAL SYSTEM	)
SURFACE WATER DISCHARGE	)
ME0001953	) WASTE DISCHARGE LICENSE
W000645-5P-J-R **APPROVAL**	) **RENEWAL**

In compliance with the applicable provisions of Pollution Control, 38 M.R.S. §411 – 424-B, Water Classification Program, 38 M.R.S. §464 – 470 and Federal Water Pollution Control Act, Title 33 U.S.C. § 1251, and applicable rules of the Department of Environmental Protection (DEPARTMENT), has considered the application of the JASPER WYMAN & SON, INC/permittee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On July 16, 2020, the Department accepted as complete for processing an application for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001953/Maine Waste Discharge License (WDL) #W000645-5P-G-R, (permit hereinafter) which was issued by the Department on July 7, 2015, for a five-year term. The 7/7/15 permit authorized the discharge of 1) a daily maximum of 0.10 million gallons per day (MGD) of blueberry canning and processing wastewaters to the Narraguagus River in Cherryfield via Outfall #001B; 2) a daily maximum of up to 0.270 MGD of non-contact cooling waters to the Narraguagus River in Cherryfield via Outfall #003B; and 3) the operation of an 18.3-acre (increased from 10 acres) surface wastewater (spray irrigation) system in Milbridge to dispose of an average of 40,700 gallons of blueberry processing and frozen fruit/vegetable repackaging wastewaters per acre per week during the period of April 15th – November 15th of each year via spray irrigation field SF-1.

PERMIT SUMMARY

This permit is carrying forward the terms and conditions of the previous permit except that this permit:

1. Revises Special Condition M. Pesticides and requires the permittee to submit a list of pesticides used during the previous season and institute sampling January 1st–May 31st following the use of Propiconazole or Methoxyfenozide during the previous season. Special Condition M also requires the permittee to sample for these parameters in one groundwater monitoring well that is downgradient of the wastewater storage lagoon(s) at a frequency of once in a 5-year permit cycle.

2. Establishes a limitation and monitoring frequency for Total Residual Chlorine (TRC) for Outfall #001B.

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CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated October 6, 2022, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.

2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.

3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S. § 464(4)(F), will be met, in that:

   (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;

   (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;

   (c) Where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;

   (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and

   (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of JASPER WYMAN & SON, INC. to 1) operate a surface wastewater disposal system (spray irrigation) for the seasonal disposal of up to 106,401 gallons per day of blueberry processing, frozen fruit/vegetable repackaging and non-contact cooling wastewaters to ground waters, Class GW-A, in Milbridge, Maine; and 2) to discharge up to a daily maximum of up to 0.10 MGD of blueberry processing and frozen fruit/vegetable repackaging wastewaters and up to a daily maximum of up to 0.270 MGD of non-contact cooling waters to the Narraguagus River, Class B, in Cherryfield, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. "*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*," revised July 1, 2002, copy attached.

2. The attached Special Conditions, including effluent limitations and monitoring requirements.

3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended June 9, 2018)].

DONE AND DATED AT AUGUSTA, MAINE, THIS 6 DAY OF October, 2022.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: _____

for MELANIE LOYZIM, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES
Date of initial receipt of application July 8, 2020.

Date of application acceptance July 16, 2020.

FILED

OCT 6, 2022

State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection
This Order prepared by Rod Robert, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **TREATED BLUEBERRY PROCESS AND FROZEN FRUIT/VEGETABLE REPACKAGING WASTEWATER via Outfall #001B** to the Narraguagus River in Cherryfield, Maine. Such discharges must be limited and monitored by the permittee as specified below[(1)]:

Effluent Characteristic	**Discharge Limitations**				**Minimum Monitoring Requirements**	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	---	0.10 MGD *[03]*	---	---	Daily When Discharging *[DL/DS]*	Measured *[MS]*
BOD_5 *[00310]*	130 lbs./day *[26]*	218 lbs./day *[26]*	Report mg/L *[19]*	Report mg/L *[19]*	2/Month[(2)] *[02/30]*	Grab *[GR]*
TSS *[00530]*	269 lbs./day *[26]*	390 lbs./day *[26]*	Report mg/L *[19]*	Report mg/L *[19]*	2/Month[(2)] *[02/30]*	Grab *[GR]*
Total Residual Chlorine[(3)] [50060]				1.0 mg/L *[19]*	1/Month[(2)] *[1/30]*	Grab *[GR]*
pH *[00400]*	---	---	---	6.0 – 9.0 SU *[12]*	2/Month[(2)] *[02/30]*	Grab *[GR]*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. The permittee is authorized to discharge **NON-CONTACT COOLING WASTEWATER EFFLUENT via Outfall #003** to the Narraguagus River in Cherryfield, Maine. Such discharges must be limited and monitored by the permittee as specified below[(1)]:

Effluent Characteristic	**Discharge Limitations**				**Minimum Monitoring Requirements**	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	---	0.270 MGD *[03]*	---	---	1/Month *[01/30]*	Measured *[MS]*
Effluent Temperature *[00011]*	---	80 degrees Fahrenheit *[15]*	---	---	1/Month[(4)] *[01/30]*	Grab *[GR]*

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs).

FOOTNOTES: See Pages 10-11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. The permittee is authorized to operate a surface wastewater treatment and disposal system. The **LAGOON EFFLUENT DISCHARGE TO THE SPRAY IRRIGATION AREA (OUTFALL #006A)** must be limited and monitored as specified below [(1)]:

Effluent Characteristic	**Discharge Limitations**	**Minimum Monitoring Requirements**	
	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Lagoon Freeboard *[82564]*	Report, feet *[19]*	1/Month[(5)] *[01/30]*	Measure *[MS]*
Biochemical Oxygen Demand *[00310]*	Report, mg/L *[19]*	1/Month[(5)] *[01/30]*	Grab *[GR]*
Nitrate-Nitrogen *[00620]*	Report, mg/L *[19]*	1/Month[(5)] *[01/30]*	Grab *[GR]*
pH (Standard Units) *[00400]*	Report S.U. *[12]*	1/Month[(5)] *[01/30]*	Grab *[GR]*

FOOTNOTES: See Pages10-11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

4. The permittee is authorized to apply wastewater to the land via a spray irrigation system during the time period of **March 1st - December 15th of each calendar year**. The **SPRAY-IRRIGATION FIELD**, **SF-1** must be limited and monitored as specified below[(1)]:

Effluent Characteristic	**Discharge Limitations**		**Minimum Monitoring Requirements**	
	Monthly Total	Weekly Average	Measurement Frequency	Sample Type
Flow – Total Gallons *[82220]*	---	744,810 (Gallons/week) [(6)] *[8G]*	1/Week *[01/07]*	Calculate *[CA]*
Flow – Total Gallons *[82220]*	Report (Gallons) *[80]*	---	1/Month *[01/30]*	Grab *[GR]*

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs).

FOOTNOTES: **See Pages 10-11 of this permit for applicable footnotes**.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

5. **GROUND WATER MONITORING WELLS; MW006B** (the westerly most monitoring well located in spray area C-8), **MW006C** (the easterly most well located in spray area D-12), **MW006D** (located southerly of the lagoon), **MW006E** (located along the easterly embankment of the lagoon), **MW006F** (located along the northerly side of the lagoon) must be monitored as specified below.

Effluent Characteristic	**Discharge Limitations**	**Minimum Monitoring Requirements**	
	Daily Maximum	Measurement Frequency	Sample Type
Nitrate-Nitrogen *[00620]*	10 mg/L *[19]*	2/Year[8] *[02/YR]*	Grab *[GR]*
Depth to Water Level Below Land Surface*[72019]*	Report (feet)[7] *[27]*	2/Year[8] *[02/YR]*	Measure *[MS]*
Specific Conductance *[00095]*	Report (umhos/cm) *[11]*	2/Year[8] *[02/YR]*	Grab *[GR]*
Temperature *[00011]*	Report (Farhenheit) *[15]*	2/Year[8] *[02/YR]*	Grab *[GR]*
pH (Standard Units) *[0040]}*	Report (S.U.) *[12]*	2/Year[8] *[02/YR]*	Grab *[GR]*
Total Suspended Solids *[00530}*	Report (mg/L) *[19]*	2/Year[8] *[02/YR]*	Grab *[GR]*

FOOTNOTES: **See Pages 10-11 of this permit for applicable footnotes**.

SPECIAL CONDITIONS
A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes:

1. **Sampling –** All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. The permittee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a publicly owned treatment works (POTW) pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective December 19, 2018). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10 − 144 CMR 263. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the discharge monitoring report (DMR).

2. **2/Month** – There must be at least ten (10) days between sampling events when possible based on processing frequency.

3. **Total Residual Chlorine** – Limitations and monitoring requirements for TRC are in effect whenever elemental chlorine or chlorine-based compounds are utilized for disinfection or cleaning.

4. **Non-Contact Cooling Water Monitoring** – Effluent temperature monitoring requirements for non-contact cooling water discharges via Outfall #003 are required only during the months of **June, July, August and September** of each year.

5. **Lagoon Sampling Location** – Lagoon effluent must be sampled (at a point in the lagoon effluent pump outlet line where a sampling port has been installed) and must be representative of what is actually sprayed on the fields. Any change in sampling location must be approved by the Department in writing. Lagoon effluent sampling must be conducted in the months of **April, May, August, and October** of each calendar year in accordance with approved methods for sampling, handling and preservation. With the exception of freeboard, the permittee is not required to test for these parameters during a month where no wastewater was disposed of via the spray irrigation system.

6. **Spray Application Rate Calculation** – A field's weekly application rate is the total gallons sprayed over the applicable period of time. The permittee must measure the flow of wastewater to the spray irrigation area by the use of a flow measuring device that is checked for calibration at least once per calendar year. Weekly is defined as Sunday through Saturday.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

7. **Depth to Water Level Below Land Surface Monitoring** – Measured to the nearest one-tenth ($1/10^{th}$) of a foot as referenced from the surface of the ground at the base of the monitoring well and must be conducted in the months **of May and October** of each calendar year.

8. **Groundwater Monitoring** – Groundwater monitoring must be conducted during the months of May and October. Sampling, handling and preservation must be conducted in accordance with Special Condition A Footnote #1 of this permit. Temperature and pH are considered to be "field" parameters and are to be measured in the field via instrumentation. For purposes of this permit, specific conductivity may be measured in the laboratory (normally a field parameter) as long as Department approved methods for handling and preservation of the sample are adhered to and analysis is performed in accordance with methods approved by 40 Code of Federal Regulations (CFR) Part 136. Specific conductance sample must be temperature calibrated to 25°C.

B. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a Maine Grade SITS-II certificate or higher (or Registered Maine Professional Engineer) pursuant to Title 32 M.R.S. §4171- 4182 et seq. and Regulations for Wastewater Operator Certification, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the permittee may engage the services of the contract operator.

C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge to discharge only: 1) in accordance with the permittee's General Application for Waste Discharge License, accepted for processing on July 16, 2020, 2) in accordance with the terms and conditions of this permit; 3) via Outfall #001B (treated process wastewaters to the Narraguagus River); via Outfall #003B (non-contact cooling waters to the Narraguagus River); and 4) to the spray irrigation field SF-1. Discharges of wastewater from any other point source(s) are not authorized under this permit and must be reported in accordance with Standard Condition D(1)(F), *Twenty-four-hour reporting*, of this permit.

SPECIAL CONDITIONS

D. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the uses designated for the classification of the receiving waters.

2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated for the classification of the receiving waters.

3. The permittee must not discharge effluent that causes visible discoloration or turbidity in the receiving waters, which would impair the uses designated for the classification of the receiving waters.

4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification or lowers the existing quality of any body of water if the existing quality is higher than the classification.

E. NOTIFICATION REQUIREMENTS

In accordance with Standard Condition 6, *Change of Discharge*, the permittee must notify the Department of the following:

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to the system at the time of permit issuance.

2. For the purposes of this section, notice regarding substantial change must include information on:

   a. the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and

   b. any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

SPECIAL CONDITIONS

F. GENERAL OPERATIONAL CONSTRAINTS

1. All wastewater must receive treatment through a properly designed, operated and maintained lagoon system prior to land irrigation.

2. The spray irrigation facilities must be effectively maintained and operated at all times so that there is neither discharge to surface waters nor any contamination of groundwater which will render it unsatisfactory for usage as a public drinking water supply.

3. The surface wastewater disposal system must not cause the lowering of the quality of the groundwater, as measured in the groundwater monitoring wells specified by this permit, below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to *Drinking Water Regulations*, 22 M.R.S. §2611. In the event that groundwater monitoring results indicate lowering of the existing groundwater quality, the permittee may be required to take immediate remedial action(s), which may include, but not be limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, groundwater remediation, or ceasing operation of the system until the groundwater attains applicable standards.

4. The Department must be notified as soon as the permittee becomes aware of any threat to public health, unlicensed discharge of wastewater, or any malfunction that threatens the proper operation of the system. Notification must be made in accordance with the attached Standard Condition #4, *Monitoring and Reporting*, of this permit.

5. The permittee must maintain a file on the location of all system components and relevant features. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells must be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports. Each component must be mapped and field located sufficiently to allow adequate inspections and monitoring by both the permittee and the Department.

SPECIAL CONDITIONS

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS LOGS AND REPORTS

1. Wastewater may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff within or outside the designated boundaries of the spray fields. There must be no significant runoff within or out of the spray irrigation area due to the spray irrigation events.

2. At least 10 inches of separation from the ground surface to the ground water table must be present prior to each spray irrigation.

3. No wastewater must be applied to the site following a rainfall accumulation exceeding 1.0 inches within the previous 24-hour period. **A rain gauge must be located on site to monitor daily precipitation.** The permittee must also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future**.**

4. No wastewater must be applied where there is snow present on the surface of the ground.

5. No wastewater must be applied when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.

6. No traffic or equipment must be allowed in the spray-irrigation field except where installation occurs or where normal operations and maintenance are performed.

7. **Prior to the commencement of spray irrigation for the season (April 15 – November 15 of each year),** the permittee must notify the Department's compliance inspector that they have verified that site conditions are appropriate (frozen ground, soil moisture, etc.) for spray irrigation.

8. The permittee must maintain enough ground water level inspection wells per spray field to ensure that 10 inches of separation from the ground surface to the observed groundwater level is present prior to each spray event for each section of a field that is going to be sprayed. Depths to ground water must be recorded in accordance with the format similar to *"Monthly Operations Log" provided* as **Attachment A** of this license.

9. The permittee must at all times maintain in good working order and operate at maximum efficiency all wastewater collection, treatment and/or control facilities. Should significant malfunctions or leaks be detected, the permittee must shut down the malfunctioning portion of the spray system and make necessary repairs before resuming operation. The permittee must cease irrigation if runoff is observed outside the designated boundaries of the spray field.

SPECIAL CONDITIONS

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS LOGS AND REPORTS (cont'd)

10. **The licensee must maintain a daily log of all spray irrigation operations** which records the date, weather, rainfall, areas irrigated, volume sprayed (gallons), application rates (daily and weekly), and other relevant observations/comments from daily inspections. The log must be in accordance with the general format of the *"Monthly Operations Log"* provided as **Attachment A** of this license, or other similar format approved by the Department. Weekly application rates must be reported in accordance with the general format of the *"Spray Application Report by Week"* provided as **Attachment B** of this license or other format as approved by the Department. The *Monthly Operations Log, and Spray Application Report by Week,* for each month must be submitted to the Department as an attachment to the monthly Discharge Monitoring Reports (DMRs) in a format approved by the Department. Copies will also be maintained on site for Department review and for license operation maintenance purposes.

H. VEGETATION MANAGEMENT

1. The permittee must remove grasses and other vegetation such as shrubs and trees, if necessary, so as not to impair the operation of the spray irrigation system, ensure uniform distribution of wastewater over the desired application area and to optimize nutrient uptake and removal.

2. The vegetative buffer zones along the perimeter of the site must be maintained to maximize vegetation and forest canopy density in order to minimize off-site drift of spray.

I. LAGOON MAINTENANCE

1. The integrity of the lagoons must be inspected periodically during the operating season and properly maintained at all times. There must be no overflow through or over the banks of the lagoons. Any signs of leaks or overflow must be repaired or corrected immediately upon discovery.

2. **The permittee must maintain all lagoon freeboard levels at design levels or at least two (2) feet whichever is greater**. The lagoons must be operated in such a way as to balance the disposal of wastewater via spray irrigation and to ensure that design freeboard levels are maintained.

3. The lagoons must be cleaned of solid materials as necessary to maintain the proper operating depths that will provide best practicable treatment of the wastewater. All material removed from the lagoon must be properly disposed of in accordance with all applicable State and Federal rules and regulations.

SPECIAL CONDITIONS

J. INSPECTIONS AND MAINTENANCE

The permittee must periodically inspect all system components to ensure the facility is being operated and maintained in accordance with the design of the system. Maintenance logs must be maintained for each major system component including pumps, pump stations, storage tanks, spray apparatus, and pipes. At a minimum, the logs must include the unique identifier [alphabetic, numeric or alpha-numeric -see Special Condition F(5) of this permit], the date of maintenance, type of maintenance performed, names of person(s) performing the maintenance, and other relevant system observations.

K. GROUND WATER MONITORING WELLS

1. All monitoring wells must be equipped and maintained with a cap and lock to limit access and must be maintained in a secured state at all times. The integrity of the monitoring wells must also be verified annually.

2. The Department reserves the right to require increasing the depth and or relocating any of the ground water monitoring wells if the well is perennially dry or is determined not to be representative of ground water conditions.

L. OPERATIONS AND MAINTENANCE (O & M) PLAN AND SITE PLAN(S)

This facility must have a current written comprehensive Operation & Maintenance (O & M) Plan. The plan must provide a systematic approach by which the permittee must at all times, properly operate and maintain all facilities and the systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this license.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee must evaluate and modify the O& M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O& M Plan must be kept on-site at all times and made available to Department personnel upon request.

Within 90 days of completion of new and substantial upgrades of the wastewater treatment facility, the permittee must submit the updated O&M Plan to their Department inspector for review and comment.

SPECIAL CONDITIONS

M. PESTICIDES

By December 31st [ICIS ANNRP] submit a list of pesticides used during the previous season. Between January 1st and May 31st [ICIS code 07099], following the use of Propiconazole or Methoxyfenozide during the previous season, the permittee must sample for these parameters in one groundwater monitoring well that is downgradient of the wastewater storage lagoon(s) at a frequency of once in a 5-year permit cycle. Propiconazole will be sampled and analyzed via USEPA Environmental Chemistry Method (ECM) MRID 48697002 for water samples. Methoxyfenozide will be sampled and analyzed via USEPA ECM MRID 49525703 for water samples. Alternatives to the stated methodology or use of a laboratory that is not certified by the State of Maine's Department of Health and Human Services must be approved by the Department.

The permittee must report sample results to the Department by June 15th, as an attachment to the May Discharge Monitoring Report (DMR). The Department, in conjunction with the Maine Department of Agriculture's Board of Pesticide Control, or other State and/or federal agency/organization with expertise in pesticides will evaluate the information submitted and determine if further testing is necessary**.**

N. MONITORING AND REPORTING

Electronic Reporting

NPDES Electronic Reporting, 40 C.F.R. 127, requires MEPDES permit holders to submit monitoring results obtained during the previous month on an electronic discharge monitoring report to the regulatory agency utilizing the USEPA electronic system.

Electronic Discharge Monitoring Reports (DMRs) submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and

2. Submitted no later than midnight on the 15th day of the month following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Toxics reporting must be done using the DEP toxsheet reporting form. An electronic copy of the Toxsheet reporting document must be submitted to your Department compliance inspector as an attachment to an email. In addition, a hardcopy form of this sheet must be signed and submitted to your compliance inspector, or a copy attached to your NetDMR submittal will suffice. Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15th day of the month following the completed reporting period.

SPECIAL CONDITIONS

N. MONITORING AND REPORTING (cont'd)

A signed copy of the DMR and all other reports required herein must be submitted to the Department assigned compliance inspector (unless otherwise specified) following address:

Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Water Quality
106 Hogan Road
Bangor, Maine 04401

O. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results in the Special Conditions of this permitting action, new site-specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: (1) include effluent limits necessary to control specific pollutants or, for surface water discharges, whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

P. SEVERABILITY

In the event that any provision, or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit must remain in full force and effect and must be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

Attachment A

Monthly Operations Log

Jasper Wyman (WDL #W000645) **(Month/Year)** _____

Spray Field #_____ **Weekly Application Rate**: _____gallons/week

A	B	C	D	E	F	G
Date	Precipitation Previous 24 hours (inches)	Air Temp (ºF)	Weather	Wind-Direction Speed (mph)	Depth To GW in Observation well (inches)	Total Gallons Pumped (gallons)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
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31						

Signature of Responsible Official: _____ Date _____

Attachment B

Spray Application Report by Week

Jasper Wyman (WDL #W000645) **(Month/Year)** _____

Spray Field #	Weekly Limit (Gallons/Week)	Spray Application Rates (Gallons/Week)					Monthly Total
		Week 1	Week 2	Week 3	Week 4	Week 5	

Signature of Responsible Official: _____Date _____

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **October 6, 2022**

MEPDES PERMIT: **ME0001953**
WASTE DISCHARGE LICENSE: **W000645-5P-J-R**

NAME AND MAILING ADDRESS OF APPLICANT:

JASPER WYMAN & SON, INC.
P.O. Box 100
Milbridge, Maine 04658

COUNTY: **Washington County**

NAME AND ADDRESS OF FACILITY:

JASPER WYMAN & SON, INC.
178 Main St.
Cherryfield, ME

RECEIVING WATER/CLASSIFICATION: **Narraguagus River / Class B**
Ground water / Class GW-A

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Adam West**
(207) 546-3381
awest@wymans.com

1. APPLICATION SUMMARY:

a. Application: On July 16, 2020, the Department accepted as complete for processing an application for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001953/Maine Waste Discharge License (WDL) #W000645-5P-G-R, (permit hereinafter) which was issued by the Department on July 7, 2015, for a five-year term. The 7/7/15 permit authorized the discharge of 1) up to a daily maximum of 0.10 million gallons per day (MGD) of blueberry canning and processing wastewaters to the Narraguagus River in Cherryfield via Outfall #001B; 2) a daily maximum of up to 0.270 MGD of non-contact cooling waters to the Narraguagus River in Cherryfield via Outfall #003B; and 3) the operation of an 18.3-acre (increased from 10 acres) surface wastewater (spray irrigation) system in Milbridge to dispose of an average of 40,700 gallons of blueberry processing and fruit/vegetable repackaging wastewaters per acre per week during the period of April 15th – November 15th of each year via spray irrigation field SF-1.

1. APPLICATION SUMMARY

b. Source Description: The Jasper Wyman & Son, Inc. facility processes fresh blueberries between July and October, operates a canning line and rerun line year-round, and also operates a frozen storage warehouse year-round. Wastewater is generated from fresh blueberry processing, fruit/vegetable repackaging and washdown of equipment.

Fresh blueberries are delivered from the fields to the fresh processing line and are brought to cold storage upon completion. The blueberries are cleaned by the principal of differential buoyancy in a processing system that uses sugar-laden water as a transport medium (where the lighter berries float) and then the berries are frozen for future uses. Wastewater is generated from the float-tank effluent, non-contact cooling water, used in this line to feed the individual quick-frozen tunnels which freeze the blueberries for storage, and wash-down water used for sanitation and cleaning. The facility is in the process of installing a new spray nozzle system that will be used to support equipment cleaning. At the end of a production day, the wastewater is drained from the tank and discharged through a screen for solids reduction and then pumped to a storage tank with a capacity of 12,000 gallons. Between mid-May and October, the combined flow (100,250 gpd) of cooling water, process wastewater and wash-down water is discharged to the storage lagoon for spray irrigation.

Frozen (rerun) blueberries are delivered from cold storage to the rerun line for processing and are returned to cold storage upon completion. Wastewater (16,500 gpd) is generated from non-contact cooling water and wash-down water. Wastewater is discharged to the lagoon between mid-May and October.

Canning blueberry processing involves delivery of frozen blueberries from cold storage and the canned product is transported to dry storage for shipping. Wastewater is generated from non-contact cooling water, and wash-down water.

c. Wastewater Treatment: All wastewater from the fresh and frozen processing areas is discharged to the wastewater treatment system. Wastewater is funneled through the process wastewater basin and is treated by screening and settling including solids removal in riffle and floatation tanks, settling in a discharge basin, and further solids separation in a rotoscreen with a 1/8" mesh, then to a storage lagoon for spray irrigation.

Wyman conveys as much wastewater (processing wastewaters and non-contact cooling waters) to the storage lagoon as is practical and discharges wastewater that exceeds the lagoon storage capacity to the Narraguagus River.

A map showing the location of the facility, receiving water and outfall is included as **Attachment A** of this fact sheet.

2. PERMIT SUMMARY

a. Terms and Conditions: This permit is carrying forward the terms and conditions of the previous permit except that this permit:

1. Revises Special Condition M. Pesticides and requires the permittee to submit a list of pesticides used during the previous season and institute sampling January 1st–May 31st following the use of Propiconazole or Methoxyfenozide during the previous season. Special Condition M also requires the permittee to sample for these parameters in one groundwater monitoring well that is downgradient of the wastewater storage lagoon(s) at a frequency of once in a 5-year permit cycle.

2. Establishes a limitation and monitoring frequency for Total Residual Chlorine (TRC) for Outfall #001B.

b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for Wyman's Cherryfield facility.

December 28, 2009 – The Department issued combination MEPDES permit ME0001953/WDL W000645-5P-G-R to Wyman for a five-year term.

January 31, 2011 - The 12/28/09 WDL was modified to revise BOD and TSS limits to be consistent with the derivation of technology-based limits pursuant to 40 CFR Part 407 Subpart F, *Canned and Preserved Fruits Subcategory*.

January 22, 2015 - Wyman submitted a timely and complete General Application to the Department for renewal of the 12/28/09 permit.

July 7, 2015 – The Department issued combination MEPDES permit ME0001953/WDL W000645-5P-I-R to Wyman for a five-year term.

July 8, 2020 - Wyman submitted a timely and complete General Application to the Department for renewal of the 7/7/15 permit.

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S. § 414 A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with applicable state law, and ensure that the receiving waters attain the State water quality standards as described in Maine's Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.§ 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (amended February 16, 2020), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of Ground Waters, 38 M.R.S. § 470 classifies the groundwater at the point of discharge as Class GW-A receiving water. *Standards of Classification of Ground Water,* 38 M.R.S., Section 465-C(1), describes the standards for water classified as Class GW-A as the highest classification of groundwater and must be of such quality that it can be used for public water supplies. These waters must be free of radioactive matter or any matter that imparts color, turbidity, or odor which would impair use of these waters, other than that occurring from natural phenomena.

Classification of major river basins, 38 M.R.S. § 467(6-A)(2) classifies the Narraguagus River from the confluence with the West Branch of the Narraguagus River in Cherryfield to tidewater as a Class B waterbody. *Standards for classification of fresh surface waters*, 38 M.R.S. § 465(3) describes the standards for Class B waters.

The Department has no information that the discharge from the permittee, as conditioned, causes or contributes to non-attainment of applicable Class B/Class GW-A water quality standards

5. RECEIVING WATER CONDITIONS

The State of Maine 2022 Integrated Water Quality Monitoring and Assessment Report (Report), prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the Narraguagus River in Cherryfield as, "Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury." Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "All freshwaters are listed in Category 4A (Total Maximum Daily Load (TMDL) Completed) due to the USEPA approval of a Regional Mercury TMDL. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters and many fish from any given water do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Health and Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources." Pursuant to 38 M.R.S. § 420(1-B)(B), "a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11."

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Narraguagus River Discharges: The previous permitting action authorized the discharge of treated blueberry processing wastewater and non-contact cooling water to the Narraguagus River at Cherryfield. Wyman conveys as much of its wastewater and non-contact cooling waters to the storage lagoon as possible but discharges these wastewaters to the river to avoid exceeding the storage capacity of the lagoon. This section discusses monitoring requirements for process wastewater (Outfall #001B) and non-contact cooling water (Outfall #003B) discharges to the Narraguagus River.

Outfall #001 B – Blueberry Processing and Frozen Fruit/Vegetable Repackaging Wastewater

a. Flow: The previous permitting action established a daily maximum flow limit of 0.1 MGD based on information provided by the permittee. A review of Discharge Monitoring Report (DMR) data for the period August 2015 – July 2020 indicates values have been reported as follows:

Flow (36 DMRs)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Daily Maximum	0.10	0.0 – 0.09	0.043

Outfall #001 B –

b. Dilution Factors - The Department established applicable dilution factors for the discharge in accordance with freshwater protocols established in Department Rule Chapter 530 *Surface Water Toxics Control Program*, October 2005. With a permitted flow limit of 0.10 MGD, and USGS river gage data for the Narraguagus River at Cherryfield, the dilution factors are as follows:

Acute: $1Q10^{(1)} = 11.4$ cfs $\Rightarrow \frac{(11.4 \text{ cfs})(0.6464) + (0.10 \text{ MGD})}{(0.10 \text{ MGD})} = 75:1$

Chronic: $7Q10 = 45.6$ cfs $\Rightarrow \frac{(45.6 \text{ cfs})(0.6464) + (0.10 \text{ MGD})}{(0.10 \text{ MGD})} = 296:1$

Harmonic Mean = 137 cfs $\Rightarrow \frac{(137 \text{ cfs})(0.6464) + (0.10 \text{ MGD})}{(0.10 \text{ MGD})} = 886:1$

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (CONT'D)

Footnotes

(1) Chapter 530.5 (D)(4)(a) states that analyses using numeric acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone. The 1Q10 is the lowest one-day flow over a ten-year recurrence interval. The regulation goes on to say that where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design, up to including all of it. The Department has made the determination that the discharge does not receive rapid and complete mixing, therefore, the modified acute (¼ 1Q10) is applicable.

a. Biochemical Oxygen Demand (BOD_5): The 12/28/09 permitting action stated in part;

The administrative record suggests that certain BOD_5 limits, including the annual average, may have been derived in consideration of the effluent guideline limitations promulgated at 40 CFR Part 407 Subpart F, Canned and Preserved Fruits Subcategory. The applicability of this subpart does not include discharges from blueberry processing facilities.

As a result, the Department performed a statistical evaluation of calendar years 2006-2009 effluent data to determine appropriate performance-based effluent thresholds to ensure that the wastewater receives best practicable treatment. Based on the 95th and 99th percentiles[1] for the data set, effluent limit thresholds for BOD were determined to be and established in the 12/28/09 permit as follows:

Outfall #001 B –

Monthly average:	19 lbs./day 46 mg/L	Daily maximum:	36 lbs./day 200 mg/L

In January 2011, the Department reconsidered the statement. "*The applicability of this subpart does not include discharges from blueberry processing facilities."* Federal regulation found at 40 CFR §407.61(c) of the applicable NEG states that "*The term caneberries must include the processing of the following berries: canned and frozen blackberries, blueberries, boysenberries….*" Therefore, BOD limits were established in a January 31, 2011 permit modification utilized the NEGs found at 40 CFR §407.62. The modification established technology-based BOD mass limits as follows:

[1] 95th percentile = (Std. Dev.)(1.960) 99th percentile = (Std. Dev.)(2.576)

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (CONT'D)

National Effluent Guidelines – technology-based limits expressed in lbs/1,000 lbs of production Wyman's mean production in the month of August = 283,000 lbs/day which is based on a monthly average production of 8,500,000 pounds.

Product	Daily Max.	Mon. Avg.	Annual Avg.
Blueberries	0.77	0.46	0.32

Daily maximum mass limit: (0.77 lbs/1,000 lbs)(283) = 218 lbs/day

Monthly average mass limit: (0.46 lbs/1,000 lbs)(283) = 130 lbs/day

Annual average mass limit: (0.32 lbs/1,000 lbs)(283) = 90 lbs/day

The technology based monthly average and daily maximum mass limitations are being carried forward in this licensing action. A review of DMR data for the period August 2015-July 2020 indicates values have been reported as follows:

BOD (35 DMRs)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	130	0.0 – 114	31
Daily Maximum	218	0.3 - 286	55

Outfall #001 B –

The 12/28/09 permit established monthly average and daily maximum concentration limitations based on the same statistical evaluation methodology as was conducted for establishing the mass limitations for BOD. The Department reconsidered its position on establishing concentration limits in permits that are based on NEGs. The mass limits derived from the NEGs are by themselves, limits that are representative of the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

b. Total Suspended Solids – The 12/28/09 permit contained the following italicized text;

The previous licensing action established a daily maximum concentration limit of 80 mg/L, a daily maximum mass limit of 65 lbs./day (backcalculated from the concentration limit and discharge flow limit of 0.10 MGD), a monthly average mass limit of 45 lbs./day and an annual average mass limit of 30 lbs./day for TSS. The basis for these limits is identical to that described above for BOD_5.

A summary of the effluent TSS data for Outfall #001B as reported on the DMRs submitted to the Department for the period January 2006 through May 2009 is as follows:

TSS	***Minimum***	***Maximum***	***Arithmetic Mean***	***# DMRs***
Monthly Average	*0.16 lbs./day*	*3.1 lbs./day*	*1.4 lbs./day*	*22*
Daily Maximum	*0.16 lbs./day*	*7 lbs./day*	*2.3 lbs./day*	*22*
	4 mg/L	*70 mg/L*	*19.2 mg/L*	*22*

The Department is carrying forward the daily maximum concentration limit of 80 mg/L and the monthly average mass limit of 45 lbs./day based on best professional judgment of best practicable treatment. This permitting action is revising the daily maximum mass limit to 66 lbs./day[2] based on a reduction in the discharge flow limit, and is establishing a monthly average concentration limit of 54 mg/L[3]. The Department is making a best professional judgment that an annual average mass limitation is not necessary to demonstrate BPT or to ensure that the water quality standards ascribed to Class B waters are met, and is therefore eliminating the previously established limit.

[2] (80 mg/L)(8.34 lbs./gal)(0.10 MGD) = 66 lbs./day

[3] (45 lbs./day)/[(8.34 lbs./gal)(0.10 MGD)] = 54 mg/L

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Outfall #001 B –

As with BOD, limits should have been established utilizing the NEGs found at 40 CFR §407.62. The 1/31/11 permit modification established technology based TSS mass limits as follows:

Wyman's mean production in the month of August = 283,000 lbs/day

National Effluent Guidelines – technology based limits expressed in lbs/1,000 lbs of production

Product	Daily Max.	Mon. Avg.	Annual Avg.
Blueberries	1.38	0.95	0.58

Daily maximum mass limit: (1.38 lbs/1,000 lbs)(283) = 390 lbs/day

Monthly average mass limit: (0.95 lbs/1,000 lbs)(283) = 269 lbs/day

Annual average mass limit: (0.58 lbs/1,000 lbs)(283) = 164 lbs/day

The technology based monthly average and daily maximum mass limitations are being carried forward in this permitting action. A review of DMR data for the period August 2015-July 2020 indicates values have been reported as follows:

TSS (31 DMRs)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	269	0.0 – 21	3.4
Daily Maximum	390	0.03 –59	8.9

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

c. pH: The previous permitting action established and this permitting action carries forward a daily maximum pH range limitation of 6.0 – 9.0 SU for Outfall #001B based on best professional judgment of best practicable treatment. A review of DMR data for the period August 2015-July2020 indicates values have been reported as follows:

pH (standard units) (36 DMRs)

Value	Limit (s.u)	Range (s.u)
Daily Maximum	6.0 -9.0	6.1 – 8.0

Outfall #003B – Non-contact cooling water

d. Flow: The previous permitting action established a daily maximum flow limit of 0.27 MGD based on information provided by the permittee. A review of (DMR) data for the period August 2015-July 2020 indicates values have been reported as follows:

Flow (49 DMRs)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Daily Maximum	0.27	0.0 – 0.01	0.008

e. Temperature: The previous permitting action established, and this permitting action is carrying forward, a daily maximum effluent temperature limitation of 80° F for Outfall #003B (non-contact cooling water) to ensure that the discharge complies with the requirements of *Regulations Relating to Temperature*, 06-096 CMR 582 (last amended February 18, 1989). With a 7Q10 of 45.6 cfs (29.5 MGD) the thermal assimilative capacity (expressed in BTUs) of the receiving water can be calculated as follows:

(29,500,000 gallons)(8.34 lbs/gal)(0.5°F) = 12.3×10^7 BTUs/day

If the facility is discharging cooling water at maximum flow (0.27 MGD) and maximum temperature 80° F, and the receiving water is at a critical temperature of 66° F, what is the thermal load to the river? The calculation is as follows:

(270,000 gallons)(8.34 lbs/gal)(80°F - 66°F) = 3.1×10^7 BTUs/day

3.1×10^7 BTUs/day < 12.3×10^7 BTUs/day therefore the full permitted discharge will be in compliance with the Chapter 582 regulation.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (CONT'D)

A review of (DMR) data for the period August 2015- July 2020 indicates values have been reported as follows:

Temperature (12 DMRs)

Value	Limit (°F)	Range (°F)	Mean (°F)
Daily Maximum	80	59 - 70	65

Spray Irrigation

Slow rate land irrigation treatment is an environmentally sound and appropriate technology for best practicable treatment and disposal of wastewater. The theory behind surface wastewater disposal systems is to utilize the top 10-12 inches of organic matter and in-situ soils to attenuate the pollutant loadings in the applied wastewaters. The soils and vegetation within the spray field area will provide adequate filtration and absorption to preserve the integrity of the soil, and both surface and ground water quality in the area.

f. *Biochemical Oxygen Demand (BOD_5)* –BOD is the rate at which organisms use the oxygen in wastewater while stabilizing decomposable organic matter under aerobic conditions. BOD measurements indicate the organic strength of wastes in water. The Department has established a "Report" requirement at this time for BOD while reserving the possibility to establish a numeric limit in the future based on BPT technology or other relevant factors. Monitoring for BOD yields an indication of the effectiveness of the lagoon treatment process and the condition of the wastewater being applied.

g. *pH* - pH is considered a "field" parameter meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential ground water contamination and is carried forward from the previous licensing action.

h. *Specific Conductance* – Like pH, specific conductance is considered a "field" parameter, meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential ground water or surface water contamination and is being carried forward from the previous licensing action.

i. *Insecticides, Fungicides, Herbicides (collectively referred to as pesticides* – Farmers may utilize insecticides such as (phosmet), fungicides (chlorothalonil, propiconazole), and other pesticides on the crop at various times during berry producing years. Based on the varying persistence of these and other pesticides in water and soil, the Maine Board of Pesticide Control has recommended that it may be necessary to monitor pesticides in storage tank/lagoon effluent, groundwater monitoring locations, and spray irrigation site soils.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (CONT'D)

Because farmers are regularly changing pesticides, this permit is requiring the permittee to report to the December 31st a list of pesticides used during the previous season. Between January 1st and May 31st, following the use of Propiconazole or Methoxyfenozide during the previous season, the permittee must sample for these parameters in one groundwater monitoring well that is downgradient of the wastewater storage lagoon(s) at a frequency of once in a 5-year permit cycle. Propiconazole will be sampled and analyzed via USEPA Environmental Chemistry Method (ECM) MRID 48697002 for water samples. Methoxyfenozide will be sampled and analyzed via USEPA ECM MRID 49525703 for water samples. Alternatives to the stated methodology or use of a laboratory that is not certified by the State of Maine's Department of Health and Human Services must be approved by the Department. The permittee must report sample results to the Department by June 15th, as an attachment to the May Discharge Monitoring Report (DMR). The Department, in conjunction with the Maine Department of Agriculture's Board of Pesticide Control, or other State and/or federal agency/organization with expertise in pesticides will evaluate the information submitted and determine if further testing is necessary.

Spray Irrigation

If deemed appropriate, sampling for pesticides in ground water monitoring wells must be conducted according to the frequency and methods determined by the Department. If analysis indicates the presence of pesticides in the storage tank/lagoon effluent at or above; (1) Maximum Exposure Guidelines (MEGs), (2) Action Levels (ALs), (3) Maximum Contamination Levels (MCLs) or (4) other scientifically defensible critical thresholds established in literature, the licensee must conduct sampling for the parameter in the ground water monitoring locations in the May monitoring period in the 5th year of the license cycle.

j. *Application Rates (Weekly)* – The weekly maximum rate of 1.5 inches/week or 40,700 gal/ac/week is being carried forward from the previous permitting action but is being expressed as the allowable gallons of wastewater spray irrigated on the entire 18.3 acre site. The new limitation has been calculated to be 744,810 gallons per week. This will give the permittee the flexibility to adjust application rates within the spray field as a whole. The weekly limit is based on the characteristics of in-situ soils.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (CONT'D)

k. *Nitrate-nitrogen* – Nitrogen assumes different forms depending upon the oxidation-reduction conditions in the soil and ground water. The presence of a particular form of nitrogen indicates the nutrient attenuation capacity of the spray site. The Department considers the required monitoring for various forms of nitrogen in ground water and soils to provide accurate and sufficient analysis of site conditions and effects from the treatment process. The monitoring well sampling can also help identify chronic leakage from the lagoon or overloading of the spray sites. The spray area soil sampling requirement addresses the efficiency of the soils in attenuating the pollutant loading, helping to safeguard against exceeding the ability for plant uptake which would result in accumulation of excess nitrogen in the soils. Nitrogen compounds can indicate human health concerns if elevated in a drinking water supply. The 10 mg/l limit for nitrate nitrogen in monitoring wells is based on state and federal drinking water standards.

l. *Depth to Water Level Below Land Surface* – Measuring the distance from the ground level to the ground water surface in monitoring wells will be used to monitor representative groundwater conditions.

m. *Temperature* – Temperature is considered a "field" parameter, meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential ground water contamination and is being carried forward from the previous licensing action.

7. MONITORING AND MONITORING RESULTS

Spray Irrigation

a. Lagoon Effluent (Outfall 006A)

BOD (mg/L) (DMR's = 16)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	300 - 1,400	669

pH (standard units) (DMR's = 16)

Value	Limit (s.u)	Range (s.u)
Daily Maximum	Report	3.9 – 6.6

7. MONITORING AND MONITORING RESULTS (cont'd)

Nitrate-Nitrogen (mg/L) (DMR's = 11)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	<0.05 - 0.25	<0.126

b. Spray application rates (SF-1)

Weekly Average Rate (gal/week) (DMR's = 60)

Value	Limit (gal/week)	Range (gal/week)
Weekly average	744,810	59,400 – 737,325

Monthly total (gallons) (DMR's = 26)

Value	Limit (gal/mo)	Range (gal/mo)	Average (gal/mo)
Total	Report	59,400 – 2,656,200	557,629.5

Ground water

There are five monitoring wells associated with the spray irrigation area and lagoon. The five monitoring wells are:

Monitoring Wells	Location
MW006B	Westernmost well located in spray area associated with spray zone C-8.
MW006C	Easternmost well located in spray area associated with spray zone D-12.
MW006D	Southernmost well located on southerly side of lagoon.
MW006E	Located along the eastern berm of the lagoon.
MW006F	Located along the northern berm of the lagoon.

7. MONITORING AND MONITORING RESULTS (cont'd)

Values summarized below are mean values for results reported from August 2015- July 2020.

Well #	Temperature (Deg F)	Conductance (umhos/cm)	pH Range (SU)	TSS (mg/L)	Nitrate-Nitrogen (mg/L)
MW006B	48	45	6.0	<2.5	<0.5
MW006C	---	---	---	---	---
MW006D	51	736	6.6	24	<0.5
MW006E	48	361	6.6	0.7	<0.5
MW006F	51	223	5.9	157	1.1

Well #	Depth-to-Water Level (feet)
MW006B	4.1
MW006C	---
MW006D	4.1
MW006E	5.4
MW006F	6.9

8. SYSTEM CALIBRATION

Discharge rates, application rates and uniformity of application change over time as equipment gets older and components wear, or if the system is operated differently from the assumed design. Operating below design pressure greatly reduces the coverage diameter and application uniformity (resulting in increased ponding). For these reasons, the permittee should field-calibrate equipment on a regular basis to ensure proper application and uniformity, and when operating conditions are changed from the assumed design.

9. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

Based on information to date, the Department has determined the existing water uses will be maintained and protected provided the permittee complies with the terms and conditions established herein.

10. PUBLIC COMMENTS

Public notice of this application was made in the Ellsworth American newspaper on July 2, 2020. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses,* 06-096 CMR 522 (effective January 12, 2001).

11. DEPARTMENT CONTACTS

Additional information concerning this permitting action may be obtained from, and written comments sent to:

Rodney Robert
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
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12. RESPONSE TO COMMENTS

From September 30, 2022 through the issuance of this permit, the Department solicited comments from the public and other interested parties. Comments and the Department's responses are listed below.

Comments fom Mr. John Pond, Executive Vice President, Environmental Service Line Director, Haley Ward Inc.

1. Proposed MEPDES Permit #ME0001953/WDL W001369-5C-E-R (Department Order, p. 7/16) allows the spray irrigation system to be operated from April 15 through November 15, annually. Climate change has increased the length of the season during which spray irrigation is able to be viably used to disposition wastewater, and existing Department conditions ensure that spray irrigation is operated only when weather and climate conditions are appropriate. According to "Scientific Assessment of Climate Change and Its Effects in Maine," as promulgated by the Maine Climate Council,1 warming temperatures have caused winters to become shorter and summers to become longer, spring and fall months to become warmer, and snowfall amounts in coastal areas (including Cherryfield) to decrease. Special Condition G of the proposed Permit (Department Order, p. 12/17) already precludes the use of the spray irrigation system when the groundwater is high, snow is present, and frost is present. We request that the allowable operational period for the spray irrigation system be extended to "March 1 through December 15," annually, such as to reflect the current status of the coastal Maine climate and provide Wyman's with additional operational flexibility.

Response:

The Department acknowledges the increase in the length of the season during which spray irrigation is viable to dispose of wastewater and has amended to final permit to lengthen the spray irrigation season from March1st to December 15th for each year of the permit. All controls listed in Special Condition G remain in effect.

12. RESPONSE TO COMMENTS (Cont'd)

2. Proposed MEPDES Permit #ME0001953/WDL W001369-5C-E-R (Department Order, p. 15/17) states that Wyman's must "report sample results [for Propiconazole or Methoxyfenozide, if used during the previous season, and that the Department… will evaluate the information submitted and determine if further testing is necessary." The proposed Permit does not identify the criteria that the Department will use to determine whether additional testing is required. We request that the Department identify the criteria that will be used to evaluate Propiconazole and Methoxyfenozide results and determine whether further testing is necessary.

Response:

Upon receipt of testing results that indicate the presence of Propiconazole or Methoxyfenozide, the Department will coordinate with the Department of Agriculture Conservation and Forestry (DACF) for review and to determine if levels present require further testing and/or additional actions by the facility.

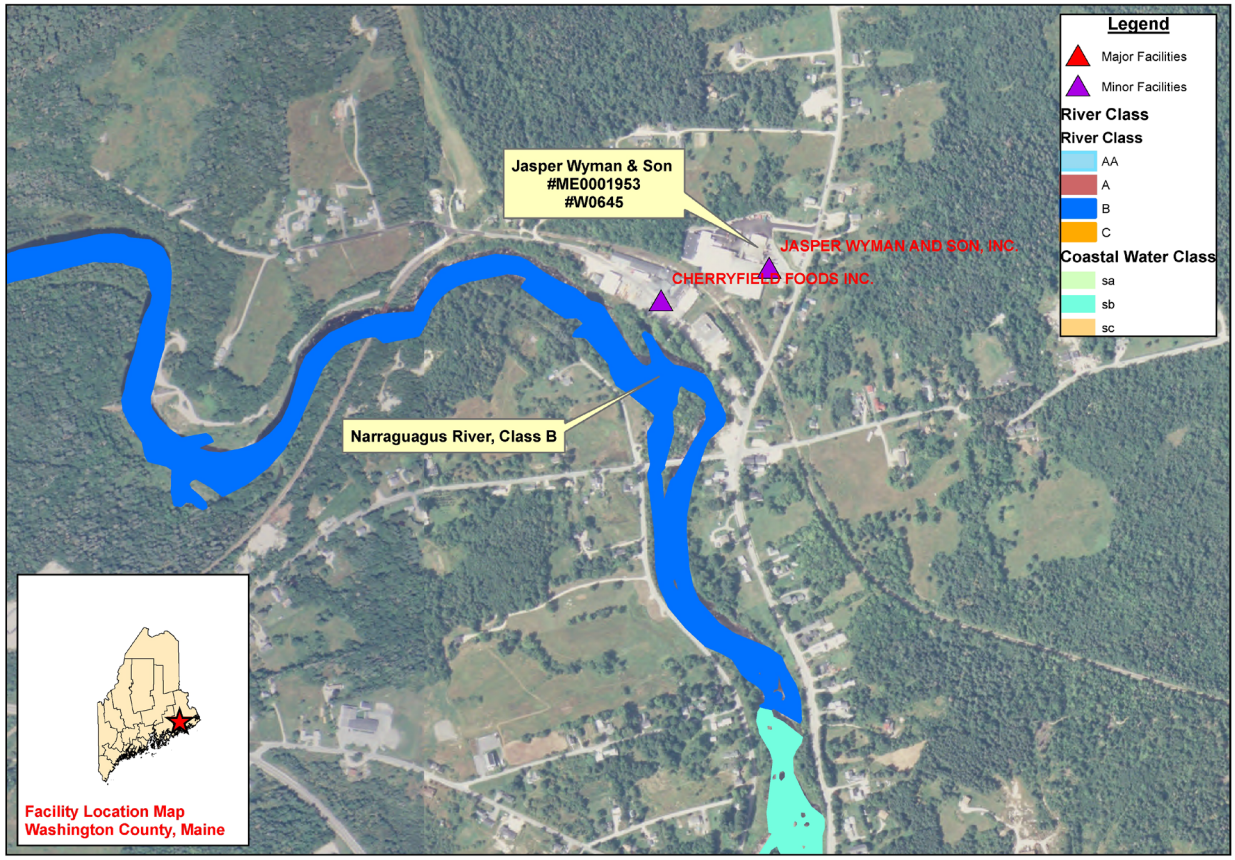
3. Proposed MEPDES Permit #ME0001953/WDL W001369-5C-E-R (Department Order, throughout) describes Wyman's as a blueberry processing facility. In addition to processing blueberries, Wyman's receives frozen assorted fruits and vegetables that they repackage for distribution. We request that the Department revise the proposed Permit to identify Wyman's as a blueberry processing and frozen fruit/vegetable repackaging facility.

Response:

The Department has made corrections in the final permit identifying the facility as a blueberry processing and frozen fruit/vegetable repackaging facility.

Comments indicating typographical errors have been addressed through correction in the final permit.

ATTACHMENT A



Jasper Wyman & Son, Inc. - Cherryfield/Milbridge, Maine

Map created by Maine DEP
November 2009

CONTENTS

A. GENERAL PROVISIONS

1. **General compliance**. All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. Other materials. Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

(a) They are not

(i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
(ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

3. Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
(b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

4. Duty to provide information. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

5. Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. Reopener clause. The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

11. Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee if its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

(a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

(b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.

(c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.

(d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.

(e) The permittee shall install flow measuring facilities of a design approved by the Department.

(f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Bypasses.

(a) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(C) The permittee submitted notices as required under paragraph (c) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;
(ii) The permitted facility was at the time being properly operated; and
(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(c) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;
(ii) The individual(s) who performed the sampling or measurements;
(iii) The date(s) analyses were performed;
(iv) The individual(s) who performed the analyses;
(v) The analytical techniques or methods used; and
(vi) The results of such analyses.

(d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.

(e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

D. REPORTING REQUIREMENTS

1. Reporting requirements.

(a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(f) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
(B) Any upset which exceeds any effluent limitation in the permit.
(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);
(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

(b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following ``notification levels'':

(i) Five hundred micrograms per liter (500 ug/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

(a) All POTWs must provide adequate notice to the Department of the following:

(i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
(ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
(iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

(a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.

(b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminates and shall specify means of disposal and or treatment to be used.

3. **Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. **Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

Continuous discharge means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

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 byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: August 2021 **Contact: (207) 314-1458**

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, 38 M.R.S. §§ 341-D(4) and 346; the Maine Administrative Procedure Act, 5 M.R.S. § 11001; and the DEP's *Rule Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status*. The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested*. The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.

3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.