



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PATRICIA W. AHO
COMMISSIONER

April 19, 2012

VIA ELECTRONIC MAIL

Ms. Ellen Rossi, Senior Operations Manager
Jasper Wyman & Son
P.O. Box 100
Milbridge, ME 04685
elrossi@wymans.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036919
Maine Waste Discharge License (WDL) Application #W007847-5P-F-R
Final Permit/Waste Discharge License – Jasper Wyman & Son

Dear Ms. Rossi:

Enclosed please find a copy of your **final** Maine MEPDES Permit/WDL which was approved by the Department of Environmental Protection. Please read the license and its attached conditions carefully. You must follow the conditions in the license to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision*."

If you have any questions regarding this matter, please feel free to contact me at (207) 287-7658 or via email at: phyllis.a.rand@maine.gov.

Sincerely,

Phyllis Arnold Rand
Division of Water Quality Management
Bureau of Land and Water Quality

Enclosure

Cc: Clarissa Trasko, DEP/CMRO Lori Mitchell, DEP/DMU Sandy Mojica, EPA
John Pond, CES, Incorporated

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

DEPARTMENT ORDER

IN THE MATTER OF

JASPER WYMAN & SON)	MAINE POLLUTANT DISCHARGE
DEBLOIS, WASHINGTON COUNTY)	ELIMINATION SYSTEM PERMIT
BLUEBERRY PROCESSING/STORM WATER)	AND
ME0036919)	WASTE DISCHARGE LICENSE
W007847-5P-F-R)	RENEWAL
APPROVAL		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, §1251, *et seq.*, and Maine law, 38 M.R.S.A., § 414-A *et seq.*, and applicable regulations, the Maine Department of Environmental Protection (Department) has considered the application of JASPER WYMAN & SON (permittee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The permittee has applied to the Department for renewal of Department combination Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System Permit #W007847-5O-C-R/ME0036919 (permit), which was issued on March 19, 2007 and is due to expire on March 19, 2012. The 3/19/07 permit authorized the discharge of blueberry processing wastewater via a surface wastewater disposal system to ground water, Class GW-A, and an unspecified quantity of storm water associated with an industrial activity to Great Falls Branch, Class A, located in Deblois, Maine.

PERMIT SUMMARY

This permitting action is similar to the 3/19/07 permitting action in that it is

For Lagoon Effluent (PCS ID #004A):

1. Carrying forward the daily maximum reporting requirement for specific conductance;
2. Carrying forward the daily pesticides concentration reporting requirements;
3. Carrying forward the minimum monitoring frequency requirements for BOD₅ and specific conductance.

For Spray Irrigation Fields (PCS IDs #SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, SA-G):

4. Carrying forward the minimum monitoring frequency requirement for application rate.

PERMIT SUMMARY (cont'd)

For Ground Water Well Monitoring Locations (PCS ID #004C, #005, and #006):

5. Carrying forward the daily maximum nitrate-nitrogen concentration limitation of 10 mg/L;
6. Carrying forward the daily maximum concentration reporting requirements for TSS and pesticides;
7. Carrying forward the daily maximum reporting requirement for depth to water level below land surface;
8. Carrying forward the daily maximum reporting requirement for specific conductance;
9. Carrying forward the daily maximum temperature reporting requirement.

For Storm Water:

10. Carrying forward authorization of the discharge of an unspecified quantity of storm water associated with industrial activity via three outfall points (Outfall #007, Outfall #008, Outfall #009).

This permitting action is different from the 3/19/07 permitting action in that it is:

For Lagoon Effluent (PCS ID #004A):

11. Eliminating the TSS monitoring requirement in order to maintain consistency with similar permits.

For Spray Irrigation Fields (PCS IDs #SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, SA-G):

12. Eliminating the requirement to submit a *Spray Irrigation Performance Report* in order to maintain consistency with similar permits.

For Ground Water Well Monitoring Locations (PCS ID #004C, #005, and #006):

13. Eliminating the requirement to submit a water quality monitoring report in order to maintain consistency with similar permits.

For Storm Water:

14. Eliminating Stormwater Outfall SF#2.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated April 20, 2012, 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, 38 MRSA § 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 natural resource, that water quality will be maintained and protected;
 - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause of 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 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.

ACTION

THEREFORE, the Department APPROVES the above noted application of JASPER WYMAN & SON to discharge a maximum of 16.3 MILLION GALLONS PER WEEK of blueberry processing wastewater via a surface wastewater disposal system to ground water, Class GW-A, and an unspecified quantity of storm water associated with an industrial activity to Great Falls Branch, Class A, in Deblois, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

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 any 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.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

DONE AND DATED AT AUGUSTA, MAINE, THIS 20 DAY OF April 2012.

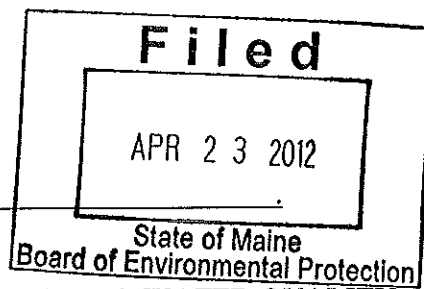
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Keenan
for Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: January 27, 2012
Date of application acceptance: January 27, 2012

Date filed with Board of Environmental Protection _____



This Order prepared by PHYLLIS A. RAND, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to operate a surface wastewater treatment and disposal system. The LAGOON EFFLUENT (PCS ID #004A) shall be limited and monitored as specified below.^(1,2)

Effluent Characteristic	Discharge Limitations	Minimum Monitoring Requirements
	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified
Lagoon Level Freeboard [82564]	Report feet [27]	1/Week ⁽³⁾ [01/07] Measure [MS]
Biochemical Oxygen Demand [00310]	Report mg/L [19]	1/Month ⁽⁴⁾ [01/30] Grab [GR]
Nitrate-Nitrogen [00620]	Report mg/L [19]	1/Month ⁽⁴⁾ [01/30] Grab [GR]
Specific Conductance [00095]	Report umhos/cm [11]	1/Month ⁽⁴⁾ [01/30] Grab [GR]
pH [00400]	Report S.U. [12]	1/Month ⁽⁴⁾ [01/30] Grab [GR]
Temperature [00011]	Report °F [15]	1/Month ⁽⁴⁾ [01/30] Grab [GR]
Pesticides ⁽⁵⁾	Report ug/L [28]	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.

FOOTNOTES: See pages 9 and 10 of this license for the applicable footnotes.

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

2. The permittee is authorized to operate a surface wastewater treatment and disposal system consisting of the following seven (7) spray irrigation areas: **SPRAY IRRIGATION AREAS (PCS ID# SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, and SA-G)**. The seven spray irrigations areas shall be limited and monitored as specified below ⁽¹⁾.

APRIL 15 – NOVEMBER 15

Parameter	Monthly <u>Total</u>	Weekly <u>Maximum</u> ⁽⁷⁾	Minimum Measurement <u>Frequency</u>	Sample <u>Type</u>
Flow - Total Gallons ⁽⁶⁾				
SA-A	Report, Gallons	---	1/Month	Calculate
SA-B	Report, Gallons	---	1/Month	Calculate
SA-C	Report, Gallons	---	1/Month	Calculate
SA-D	Report, Gallons	---	1/Month	Calculate
SA-E	Report, Gallons	---	1/Month	Calculate
SA-F	Report, Gallons	---	1/Month	Calculate
SA-G	Report, Gallons	---	1/Month	Calculate
<i>[51500]</i>	<i>[57]</i>		<i>[01/30]</i>	<i>[CA]</i>
Application Rate ⁽⁶⁾				
SA-A	---	2,331,000 gal/ week	1/Week	Calculate
SA-B	---	2,331,000 gal/ week	1/Week	Calculate
SA-C	---	2,331,000 gal/ week	1/Week	Calculate
SA-D	---	2,331,000 gal/ week	1/Week	Calculate
SA-E	---	2,331,000 gal/ week	1/Week	Calculate
SA-F	---	2,331,000 gal/ week	1/Week	Calculate
SA-G	---	2,331,000 gal/ week	1/Week	Calculate
<i>[51125]</i>		<i>[8G]</i>	<i>[01/01]</i>	<i>[CA]</i>

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.

FOOTNOTES: See pages 9 and 10 of this license for the applicable footnotes.

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

3. The permittee shall monitor conditions in **GROUND WATER MONITORING LOCATIONS (PCS ID #004C, #005, #006)** for the following parameters as limited and specified below.⁽¹⁾

Effluent Characteristic	Discharge Limitations	Minimum Monitoring Requirements
	Daily Maximum as specified	Measurement Frequency as specified
Nitrate-Nitrogen [00620]	10 mg/L [19]	2/Year ⁽⁸⁾ [02/YR] Grab [GR]
Depth To Water Level Below Land Surface [72019]	Report (Feet) ⁽⁹⁾ [61]	3/Year ⁽¹⁰⁾ [03/YR] Measure [MS]
Specific Conductance [00095]	Report umhos/cm [11]	2/Year ⁽⁸⁾ [02/YR] Grab [GR]
Temperature [00011]	Report °F [15]	2/Year ⁽⁸⁾ [02/YR] Grab [GR]
pH [00400]	Report S.U. [12]	2/Year ⁽⁸⁾ [02/YR] Grab [GR]
Total Suspended Solids [00535]	Report mg/L [19]	2/Year ⁽⁸⁾ [02/YR] Grab [GR]
Pesticides ⁽¹¹⁾	Report ug/L [28]	2/Year ⁽⁸⁾ [02/YR] 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.

FOOTNOTES: See pages 9 and 10 of this license for the applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES:

Storage Lagoon Effluent

1. **Sampling** – Sampling and analysis must be conducted 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 shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended 2/13/00). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Laboratory Certification Rules*, 10-144 CMR263 (last amended February 13, 2000).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **Lagoon Level Freeboard** – Lagoon freeboard shall be measured weekly between May 1 and October 31 of each year. Weekly is defined as Sunday through Saturday. The permittee shall maintain the lagoon freeboard at design levels or at least two (2) feet, whichever is greater. For reporting on DMRs, report the minimum freeboard recorded for the storage lagoon. In the event that the freeboard level is 2 feet or less, the permittee shall notify the Department's Compliance Inspector and consult for freeboard management and further recommendations.
3. **Lagoon Sampling** – Storage lagoon effluent shall be sampled at a point in the lagoon furthest from the influent pipe or at a sampling port on the discharge pipe leading to the spray irrigation area, and shall be representative of what is actually sprayed on the fields. Any change in sampling location must be approved by the Department in writing.
4. **Lagoon Sampling Period** – The permittee shall conduct storage lagoon effluent sampling in the months of **April, May, August, and October** of each calendar year in accordance with Special Condition A Footnote #1 above. The permittee is not required to test for these parameters during a month when no wastewater was disposed of via the spray irrigation system.

SPECIAL CONDITIONS

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

FOOTNOTES:

5. **Pesticide Sampling** – If pesticide analysis of the effluent indicates the presence of pesticides of concern as identified by the Maine Board of Pesticides Control at or above the Maine Maximum Exposure Guideline(s) (MEG) as established by the Maine Centers for Disease Control, Department of Health and Human Services, 01/20/00, the permittee shall conduct sampling for the parameter(s) in the groundwater monitoring locations during the next scheduled sampling event.

Spray-Irrigation Fields

6. **Weekly Application Rate** – A field's weekly application rate is the total gallons sprayed over the applicable period of time on the spray-irrigation field or the acreage of that portion of the field utilized. The permittee shall measure the flow of waste water to the 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.
7. **Weekly Maximum Reporting** – The permittee shall report the highest weekly application rate for the month in the applicable box on the DMR/eDMR form. The weekly maximum permitted application rate is 333,000 gallons per day @ 7 days/week = 2,331,000 gallons/week/spray field. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.

Ground Water Monitoring

8. **Ground Water Monitoring Period** – The permittee shall conduct ground water sampling in the months of **May and October** of each year. Sampling, handling and preservation shall 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. By definition the specific conductance sample shall be temperature calibrated to 25°C.
9. **Ground Water Measurement** – Measured to the nearest one-tenth (1/10th) of a foot as referenced from where the ground surface contacts the well casing.
10. **Water Level Depth Monitoring** – Depth to Water Level Below the Land Surface shall be conducted in the months of **May, August and October** of each calendar year.

SPECIAL CONDITIONS

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

FOOTNOTES:

11. **Pesticide Monitoring for Ground Water Wells** – If pesticide analysis of the lagoon effluent indicates the presence of pesticides of concern as identified by the Maine Board of Pesticides Control at or above the Maine Maximum Exposure Guideline(s) (MEG) as established by the Maine Centers for Disease Control, Department of Health and Human Services, 01/20/00, the permittee shall conduct sampling for the parameter(s) in the groundwater monitoring locations during the next scheduled sampling event.

Sampling for pesticides in the groundwater monitoring wells shall continue for the next sampling event as long as the parameter is detected in the previous groundwater sample(s) or in the lagoon effluent. If the parameter is not detected above the MEG in the lagoon effluent, it does not need to be sampled for in the groundwater monitoring locations.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated for the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.
3. The discharge shall not cause visible discoloration or turbidity in the receiving waters, which would impair the usages designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a minimum of a Maine **Grade SITS-II** certificate or higher (or Registered Maine Professional Engineer) pursuant to *Sewage Treatment Operators*, 32 M.R.S.A. §§4171- 4182 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.

SPECIAL CONDITIONS

D. AUTHORIZED DISCHARGES

The permittee is authorized to discharge treated waste water only in accordance with the terms and conditions of this permit, to the existing spray-irrigation fields [Outfalls SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, SA-G] and to designated stormwater outfalls [Outfalls #007, #008 and #009]. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition 11, *Bypass of Waste Treatment Facilities*, of this permit.

E. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee shall notify the Department of the following:

1. Any substantial change in the volume or character of pollutants being introduced into the waste water 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, adequate notice shall include information on:
 - a. The quality and quantity of waste water introduced to the waste water collection and treatment system; and
 - b. Any anticipated impact of the change in the quantity or quality of the waste water to be discharged from the treatment system.

F. STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS

1. Storm Water Pollution Prevention Plan (SWPPP)
 - a. The permittee shall maintain and periodically update its SWPPP and maintain a copy of the SWPPP onsite for Department or USEPA staff inspection. The SWPPP shall be consistent with the Storm Water Pollution Plan Requirements established in the *Maine Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity*, dated April 26, 2011.
 - b. **Within 60 days of any change** in design, construction, operation, maintenance, or chemical spill at the facility which has or may have a significant effect on the amount of pollutants present in storm water, the permittee shall amend the SWPPP and note all changes.

SPECIAL CONDITIONS

F. STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS (cont'd)

2. Monitoring Requirements

At a minimum frequency of once per calendar quarter, the permittee shall perform and document a visual examination of a storm water discharge at the end of the storm water conduit for each outfall (Outfalls #007, #008, #009 in this permit) in accordance with Department guidance document #DEPLW0768, *Instructions for Completing the Visual Monitoring Form* (see **Attachment D** of the attached Fact Sheet). The permittee shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The permittee must maintain the visual examination reports on-site with the SWPPP. The report must include the examination date and time, examination personnel, the nature of the discharge (i.e., rain runoff or snow melt), visual quality of the storm water discharge, and probable sources of any observed storm water contamination.

G. GENERAL OPERATIONAL CONSTRAINTS

1. All blueberry processing wastewater shall receive treatment through a properly designed, operated and maintained screen and settling tank and lagoon system prior to land irrigation.
2. The spray-irrigation facilities shall be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of ground water which will render it unsatisfactory for usage as a public drinking water supply.
3. The surface wastewater disposal system shall not cause the lowering of the quality of the ground water, as measured in the ground water 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.A. § 2611. In the event that ground water 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, ground water remediation or ceasing operation of the system until the groundwater attains applicable standards.
4. The Department shall 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 shall be made in accordance with the attached Standard Condition #4 of this permit.
5. The permittee shall 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 shall be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports. Each component shall be mapped and field located sufficiently to allow adequate inspections and monitoring by both the permittee and the Department.

SPECIAL CONDITIONS

H. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

1. Suitable vegetative cover shall be maintained. Wastewater may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff outside the designated boundaries of the spray irrigation field(s). There shall be no significant runoff within or outside 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 shall be present prior to spray irrigation.
3. No wastewater shall be applied to the site following a rainfall accumulation exceeding 1.0 inch within the previous 24-hour period. **A rain gauge shall be located nearby or on site to representatively monitor daily precipitation.** The permittee shall also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.
4. The permittee shall not apply wastewater where there is snow present on the surface of the ground. The permittee shall not apply wastewater when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
5. No traffic or equipment shall be allowed to be operated in the spray irrigation field(s) except where installation occurs or where normal operations and maintenance are performed.
6. **Prior to the commencement of spray irrigation for the season (April 15 – November 15 of each year),** the permittee shall notify the Department's compliance inspector that they have verified that site conditions are appropriate (frozen ground, soil moisture, etc.) for spray irrigation.
7. The permittee shall install at least one ground water level inspection well in each spray field to verify that 10 inches of separation from the ground surface to the observed groundwater level is present prior to spraying. Depths to ground water shall be recorded in accordance with the format of "*Monthly Operations Log*" provided as **Attachment A** of this permit.
8. The permittee shall 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 shall cease irrigation on a spray field if runoff is observed outside the designated boundaries of that spray field.
9. **The permittee shall maintain a daily log** of all spray irrigation operations which records the date, weather and soil conditions, rainfall, areas irrigated, volume sprayed (gallons), application rates (daily and weekly) and other relevant observations/comments from daily inspections. The log shall be in accordance with the format of the "*Monthly Operations Log*" provided as **Attachment A** of this license. Weekly spray application rates shall be reported in accordance with the format of the "*Spray Application Report by Week*" provided as **Attachment B** of this license. The "*Monthly Operations Log*" and, "*Spray Application Report by Week*" for each month shall be submitted to the Department as an attachment to the monthly Discharge Monitoring Reports (DMRs). Copies will also be maintained onsite for Department review and for license operation maintenance purposes.

SPECIAL CONDITIONS

I. VEGETATION MANAGEMENT

1. The permittee shall remove grasses and other vegetation such as shrubs and trees if necessary so as to not 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 vegetated buffer zones along the perimeter of the site shall be maintained to maximize vegetation and forest canopy density in order to minimize off-site drift of spray.

J. LAGOON MAINTENANCE

1. The integrity of the lagoon shall be inspected periodically during the operating season and properly maintained at all times. There may be no overflow through or over the lagoon berms. Any signs of leaks or overflow shall be repaired or corrected immediately.
2. The permittee shall maintain freeboard of the lagoons at design levels or at least two (2) feet, whichever is greater. The permittee shall operate the lagoons in such a manner as to balance the disposal of wastewater via spray irrigation and to ensure that design freeboard levels are maintained.
3. The lagoon shall 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 shall be properly disposed of in accordance with applicable State and Federal rules and regulations.

K. INSPECTIONS AND MAINTENANCE

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

L. GROUND WATER MONITORING WELLS AND WATER QUALITY MONITORING PLAN

All monitoring wells shall be equipped and maintained with a cap and lock to limit access and shall be maintained in a secured state at all times. The integrity of the monitoring wells shall also be verified annually by checking for the following: access and visibility, condition of locks and protective caps, presence of cracks, subsurface bentonite seal condition (unusual water quality, i.e., turbidity), condition of well screens and filter packs (changes in well performance, i.e., drop in yield), and evidence of vandalism or frost heaving. The Department reserves the right to require increasing the depth and/or relocating any of the groundwater monitoring wells if the well is perennially dry or is determined to not provide data representative of groundwater conditions.

SPECIAL CONDITIONS

M. PESTICIDES

On or before December 1 of each year [PCS code 95999], the permittee shall report to the Department any insecticides, fungicides and herbicides (collectively referred to as "pesticides") that have been used on harvested fruit processed during the previous growing season. **On or before March 1 of each year [PCS code 95999],** the permittee shall report pesticides that may be used in the next growing season on fruit that will be processed through the facility. The Department, in conjunction with the Maine Department of Agriculture's Board of Pesticide Control or other State and/or federal agencies/organizations with expertise in pesticides, will evaluate the information submitted. If a pesticide(s) of concern is identified, the Department will request additional monitoring in the facility's effluent during the month of August, pursuant to Special Condition Q, *Reopening of Permit for Modifications*, based on the new information.

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

The permittee shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the permittee shall, 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. The O&M plan shall be a working document designed for use by personnel working at the facility.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall 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 shall be kept on-site or at the permittee's Environmental Coordinator's office at all times and made available to the Department personnel upon request.

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

O. PUBLIC ACCESS TO LAND APPLICATION SITES AND SIGNAGE

Access to the land application sites shall be limited during the season of active site use. The permittee shall install signs measuring at least 8.5-inches x 11-inches in areas of concern around the perimeter of the lagoon and spray irrigation site that inform the general public that the area is being used to dispose of blueberry processing wastewaters. The signs must be constructed of materials that are weather resistant. The permittee shall annually inspect and make any necessary repairs to the signage to comply with this condition.

SPECIAL CONDITIONS

P. MONITORING AND REPORTING

Monitoring results obtained during the month (**April through November**) shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month** or hand-delivered to the Department's Regional Office such that the DMRs are **received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

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

Alternatively, if submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory **not later than close of business on the 15th day of the month** following the completed reporting period. Hard Copy documentation submitted in support of the eDMR must be postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. Electronic documentation in support of the eDMR must be submitted not later than close of business on the 15th day of the month following the completed reporting period.

Q. 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 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.

R. 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 shall remain in full force and effect, and shall 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 & Son (WDL #W007847)

(Month/Year) _____

Spray Field # _____

Weekly Application Rate: _____ gallons/week

A	B	C	D	E	F	G
Date	Precipitation Previous 24 hours (inches)	Air Temp (°F)	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						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						

Signature of Responsible Official: _____ Date _____

Attachment B

Spray Application Report by Week

Jasper Wyman & Son (WDL #W007847) (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
MAINE WASTE DISCHARGE LICENSE**

FACT SHEET

April 20, 2012

MEPDES PERMIT NUMBER: **ME0036919**
WASTE DISCHARGE LICENSE NUMBER: **W007847-5P-F-R**

NAME AND ADDRESS OF APPLICANT:

**JASPER WYMAN & SON
P.O. BOX 100
MILBRIDGE, MAINE 04658**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**JASPER WYMAN & SON
601 ROUTE 193
DEBLOIS, MAINE 04622**

COUNTY: **WASHINGTON COUNTY**

RECEIVING WATER/CLASSIFICATION:

**SPRAY IRRIGATION
GROUND WATER, CLASS GW-A**

**STORM WATER
GREAT FALLS BRANCH, CLASS A**

COGNIZANT OFFICIAL AND PHONE NUMBER:

**MS. ELLEN ROSSI
SENIOR OPERATIONS MANAGER
(207) 546-3381
elrossi@wymans.com**

1. APPLICATION SUMMARY

Application: Jasper Wyman and Son ("permittee") has applied to the Department for renewal of Department combination Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System Permit #W007847-5O-C-R/ ME0036919 ("permit"), which was issued on March 19, 2007 and is due to expire on March 19, 2012. The 3/19/07 permit authorized the discharge of blueberry processing wastewater via a surface wastewater disposal system to ground water, Class GW-A, and an unspecified quantity of storm water associated with an industrial activity to Great Falls Branch, Class A, located in Deblois, Maine.

2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is similar to the 3/19/07 permitting action in that it is:

For Lagoon Effluent (PCS ID #004A):

1. Carrying forward the daily maximum reporting requirement for specific conductance;
2. Carrying forward the daily pesticides concentration reporting requirements;
3. Carrying forward the minimum monitoring frequency requirements for BOD₅ and specific conductance.

For Spray Irrigation Fields (PCS IDs #SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, SA-G):

4. Carrying forward the minimum monitoring frequency requirement for application rate.

For Ground Water Well Monitoring Locations (PCS ID #004C, #005, and #006):

5. Carrying forward the daily maximum nitrate-nitrogen concentration limitation of 10 mg/L;
6. Carrying forward the daily maximum concentration reporting requirements for TSS and pesticides;
7. Carrying forward the daily maximum reporting requirement for depth to water level below land surface;
8. Carrying forward the daily maximum reporting requirement for specific conductance;
9. Carrying forward the daily maximum temperature reporting requirement.

For Storm Water:

10. Carrying forward authorization of the discharge of an unspecified quantity of storm water associated with industrial activity via three outfall points (Outfall #007, Outfall #008, Outfall #009).

2. PERMIT SUMMARY (cont'd)

This permitting action is different from the 3/19/07 permitting action in that it is:

For Lagoon Effluent (PCS ID #004A):

11. Eliminating the TSS monitoring requirement in order to maintain consistency with similar permits.

For Spray Irrigation Fields (PCS IDs #SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, SA-G):

12. Eliminating the requirement to submit a *Spray Irrigation Performance Report* in order to maintain consistency with similar permits.

For Ground Water Well Monitoring Locations (PCS ID #004C, #005, and #006):

13. Eliminating the requirement to submit a water quality monitoring report in order to maintain consistency with similar permits.

For Storm Water:

14. Eliminating Stormwater Outfall SF#2.

b. History: Relevant licensing/permitting actions include the following:

December 31, 2001 – The Department issued WDL # W007847-5O-B-R to the permittee for a five-year term. The 12/31/01 WDL, which expired on December 31, 2006, superseded previous WDLs issued on July 15, 1994, November 14, 1989, and March 17, 1987.

October 11, 2005 – The Department issued the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity, WDL #W008227-5Y-A-N, for a five-year term. The MEPDES General Permit superseded the USEPA Multi-Sector General Permit for Maine, which expired on October 30, 2005.

December 20, 2005 – The permittee notified the Department that it intended to seek coverage for the discharge of storm water from the Deblois facility through an individual MEPDES permit. On January 9, 2006, the Department notified the permittee that coverage for storm water discharges could be provided through modification of the 12/31/01 WDL.

March 19, 2007 – The Department issued combination MEPDES permit #ME0036919/ WDL #W007847-5O-C-R to the permittee for the discharge of blueberry processing waste waters via a surface wastewater disposal system (via two spray irrigation fields), as well as the discharge of storm water to Great Falls Branch, Class A, in Deblois, Maine. The 3/19/07 permit is scheduled to expire on March 19, 2012.

2. PERMIT SUMMARY (cont'd)

March 12, 2008 – The Department issued permit modification WDL #W007847-5O-D-M/MEPDES permit #ME0036919 to the permittee's 3/19/07 permit, authorizing the discharge of an additional 35,000 gallons per day of blueberry processing waste waters and expanding the number of spray irrigation fields from two (2) to seven (7) as a result of the proposed expansion of the blueberry processing facility.

August 16, 2010 – The Department issued permit modification WDL #W007847-5O-E-M/MEPDES permit #ME0036919 to the permittee's 3/19/07 permit, authorizing an increase in discharge from 148,000 gallons per day to 333,000 gallons per day of blueberry processing waste waters and the expansion of the seven (7) spray irrigation areas from a total of 24.98 acres to 28.05 acres.

January 27, 2012 – The permittee submitted a timely application to the Department. The application was deemed complete on January 31, 2012 and was assigned WDL#W007847-5P-F-R/MEPDES permit #ME0036919.

c. Source Description – Blueberry Processing:

The Jasper Wyman & Son processing facility in Deblois, Maine is a blueberry and cranberry processing facility. Raw product is harvested, received at the facility, cleaned and flash frozen through freezing tunnels, packaged, and labeled. Frozen blueberries are also stored in bulk and packaged for retail sale at a later date. Cranberries are processed for approximately three weeks of the year during the months of October and November. The facility is located on State Route 193 adjacent to the West Blueberry Barren in Deblois. A site location map showing the location of the facility is included as **Attachment A** of this Fact Sheet. The facility processes an average of 850,000 pounds per day of blueberries for a 10- to 13-week period during the months of July, August and September of each year. During 2011, a 640 square foot structure was constructed to house the screening/separator equipment located beside the wastewater storage lagoon. The structure is completely enclosed and is heated during the winter months. In 2011 the permittee began processing "reruns" during the months of November – June. The wastewater produced during these months will be pumped to the wastewater storage lagoon and will be held there until spring. The permittee estimates that 2,000 gallons per day will be pump to the lagoon during these months. A total of approximately 40 million pounds of blueberries are processed at the facility each year.

The permittee utilizes ground water and surface water from an irrigation pond for processing operations at the facility. Process wastewater is generated from three blueberry processing lines (referred to as Processing Lines #1, #2 and #7). The processing lines incorporate a wastewater minimization/recycling program. Wastewater consists of blueberry wash water, spillage and clean-up water, pre-freezer dewatering decant, freezer defrost water, freezer condensate water, blueberry field container wash water, and processing equipment wash water. A typical water use schematic is included as Fact Sheet **Attachment B**.

2. PERMIT SUMMARY (cont'd)

The permittee uses Chemstation®, an industrial cleaning agent, for all sanitation and disinfection needs. The following fungicides, herbicides and pesticides may be used in projects or processing at the facility: chlorothalonil, propiconazole, clethodim, mesotrione, diuron, tribenuronmethyl, terbacil, sethoxydim, hexazione, imidacloprid and phosmet. The permittee stated its intent to report to the Department the use of any other insecticides, herbicides or pesticides other than those listed in this Fact Sheet.

d. Wastewater Treatment – Fresh Fruit Process:

All wastewater from the fresh and frozen processing areas is discharged to the wastewater treatment system. The process wastewater is generated from three blueberry processing lines (Lines 1, 2 and 7) and is collected in three 10,000 gallon sumps (one for each processing line) and then pumped through a solids separator to a 1.5 million gallon wastewater storage lagoon via subsurface piping. The lagoon measures approximately 300 feet long by 180 feet wide with a mean depth of 5 feet, a maximum depth of 7 feet, with a 2-foot thick clay liner. The average retention time in the lagoon during the processing season is 10.1 days. As lagoon level requires, wastewater is pumped through temporary (seasonally placed) above-ground pipes to seven spray irrigation fields with a combined area of 28.05 acres.

- e. Spray Area Site Conditions: A Class A High Intensity Soil Survey of spray site #1 was conducted by Stephen Howell, a Certified Soil Scientist with Civil Engineering Services in 1989. The spray site is composed of Adams soils with 8 to 12 inches of fine sandy loam and sandy loam over loamy sand with slopes ranging from 0 to 6 percent. The site occurs on a broad outwash plain of coarse-grained glaciomarine deposits on an area mapped as a significant sand and gravel aquifer by the Maine Geologic Survey. Mr. Howell hypothesized that the site's loamy surface reduces soil infiltration and permeability in the upper 8 to 12 inches and may reduce the significance of the soil as an aquifer. The site is currently a grassy field.

A Class B High Intensity Soil Survey of spray site #2 was conducted by Paul Corey, a Certified Soil Scientist with S.W. Cole Engineering, Inc., in 1994. The spray site is comprised of Adams soils that are nearly level to gently sloping with slopes ranging from 0 to 8 percent. Permeability in the Adams series is typically in the range of 6 to 20 inches per hour throughout the soil profile. However, due to the sandy loam texture of the surface and upper subsoil, permeability in the upper 15 inches of the site soil is in the range of 2 to 6 inches. This upper soil layer will increase the attenuation time of the wastewater within the most biologically and chemically active portion of the soil, thereby increasing the treatment of the wastewater. The site is a field with herbaceous stage vegetation, devoid of higher vegetative strata.

A Class B High Intensity Soil Survey for a proposed expansion of an existing spray field was conducted by CES, Incorporated, in 2007. The site conditions and soil map units were found to be consistent with those previously mapped.

2. PERMIT SUMMARY (cont'd)

f. Source Description – Storm Water Associated With Industrial Activity:

On April 26, 2011, the Department reissued the *Maine Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity* (MSGP). The permittee's storm water discharges qualify for coverage under Sector U, *Food and Kindred Products*, of the MSGP. The permittee, however, is seeking continued authorization for the storm water discharges (listed in the table on the following page) under this individual MEPDES permit. The terms and conditions of this permit are consistent with those established in the MSGP for Sector U.

Based on information provided by the permittee, discharges of storm water associated with this industrial site are intermittent in nature. Spray application of process waste water does not occur during storm events and spray irrigation activities alone would not result in a discharge to Great Falls Branch. Control measures for storm water discharges include erosion control using vegetation cover, when practical, or other stabilization methods, such as mulching, gravel or stone cover, or soil stabilization fabrics. The permittee employs best management practices (BMPs) to prevent or mitigate pollution of storm water generated at the site, including employee training, good housekeeping practices (handling and storage of potential polluting materials), dust management (mobilization of suspended solids), minimization of potential for spills including a current Spill Prevention Control and Countermeasures Plan (SPCC), site and perimeter erosion control, and routine visual inspections and corrective action procedures.

Additionally, Special Condition F of this permit requires the permittee to maintain and update as necessary, a Storm Water Pollution Prevention Plan (SWPPP) for the facility. The SWPPP requirements are intended to facilitate a process whereby the permittee thoroughly evaluates potential pollution sources at the blueberry processing facility and selects and implements appropriate measures to prevent or control the discharge of pollutants in storm water runoff. The process involves the following four steps: (1) formation of a team of qualified facility personnel who will be responsible for preparing the SWPPP and assisting the facility manager in its implementation; (2) assessment of potential storm water pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent storm water contamination and comply with the terms and conditions of the permit. The permittee's SWPPP was last updated in July 2009. The SWPPP Site Plan is included as **Attachment C** of this Fact Sheet.

2. PERMIT SUMMARY (cont'd)

Based on information contained in the permittee's application and follow-up discussions, storm water discharges associated with this industrial site are generated as follows:

Outfall No.	Area	Direction of Flow	Total Area Drained	Average Discharge* ** (gallons per day)
007	Storm water drainage from Spray Field #1 and gravel access roads located north of the processing building to a drainage ditch located off of the southeast corner of SF#1	Natural topography carried storm water runoff southeast towards a drainage ditch which eventually carries storm water off-site to the Great Falls Branch	13.35 acres	1,292
008	Northern side of site between processing building and SF#1 and western side of site (paved and unpaved portions) located between processing building and Route 193	Natural topography, graded surface and catch basin divert storm water both above ground and through buried piping to a drainage ditch which eventually carries storm water off-site to the Great Falls Branch	5.73 acres	13,895
009	Southern and eastern sides of site	Natural topography and graded surfaces divert storm water through a series of drainage ditches to wooded land east of the processing building and eventually to the Great Falls Branch	6.97 acres	16,803

* Assuming an average annual rainfall in Washington County of 44.94 inches.

** It is noted that this permit does not limit the discharge flow rate for storm water. These average discharge figures are provided for informational purposes only.

Stormwater Outfall SF#2 has been identified as having "no discernible flow or drainage path observed" and is therefore being eliminated as a stormwater outfall in this permitting action.

2. PERMIT SUMMARY (cont'd)

As noted on USEPA Form 3510-2E included with the permittee's general application for renewal of this permit, the permittee performs vehicle washing at the Deblois facility during the months of May through November of each year for a fleet of approximately 32 vehicles. The washing activity formerly occurred on a designated paved area located to the northwest of the maintenance garage. From May to June and September to November, the wash water was discharged to a storm water catch basin. During the months of July and August, the wash water was diverted to the irrigation storage lagoon located to the north of the site. At a site visit on 2/29/12, Department staff and the permittee re-evaluated the vehicle washing location and determined that an area near Outfall #004 was more suitable for vehicle washing activities. A small shed adjacent to this area is equipped with ample water to serve the washing activities. The relocated vehicle washing area is located in a topographically flat area of the site and is comprised of a gravel surface. These land features will allow for infiltration and sheet flow. Given the relocation of the vehicle washing area, any catch basins onsite should be free of industrial activity and should consist solely of stormwater drainage.

- g. Sanitary Wastewater: Sanitary wastewater generated at the facility is disposed of in accordance with the Maine Department of Health and Human Services' *Subsurface Wastewater Disposal Rules*. The permittee has not applied to the Department for the discharge of sanitary waste waters.

3. CONDITIONS OF PERMITS

Conditions of licenses, 38 M.R.S.A. § 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 the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A., § 420 and 06-096 CMR 530 require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), 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 water, 38 M.R.S.A. § 470 classifies the groundwater at the point of discharge as Class GW-A waters. *Standards for the classification of ground water*, 38 M.R.S.A. § 465-C describes the standards for Class GW-A waters as the highest classification of groundwater and shall be of such quality that it can be used for public water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair the usage of these waters, other than occurring from natural phenomena.

Classification of major river basins, 38 M.R.S.A. § 467 (6-A)(B) classifies Great Falls Branch as a Class A waterbody. *Standards for classification of fresh surface waters*, 38 M.R.S.A § 465 (2) describes the standards for Class A waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report, (also known as the “305b Report”) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists a 1.3-mile reach of Great Falls Branch at Deblois (Hydrologic Unit Code #ME00105000209 / Waterbody ID #512R_03) as, “Category 5-A: Rivers and Streams Impaired by Pollutants Other Than Those Listed in 5-B Through 5-D (TMDL Required).” The Report indicates that establishing the Total Maximum Daily Load (TMDL) for that river segment is rated in the “moderate” priority for the State of Maine. The Report specifies that the waterbody is impaired for the aquatic life standards for Class A waters. The Department has no information that the discharge of storm water runoff associated with the permittee’s industrial activity causes or contributes to impairment of the aquatic life standards for Great Falls Branch.

The 305b Report lists all of Maine’s fresh waters as, “Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury. Regional or National TMDL may be Required.” The report states, “All freshwaters are listed in Category 4A (TMDL Completed) due to US EPA approval of a Regional Mercury TMDL. 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 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. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury.”

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Blueberry Process Waste Waters and Ground Water Monitoring

The Department has established lagoon effluent, spray irrigation, and ground water monitoring parameters in order to provide consistency across similar facilities now licensed by the Department. To be consistent with other similar licenses, groundwater sampling is required in May and October.

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.

The permittee shall periodically monitor the lagoon effluent, spray irrigation fields, and ground water monitoring locations on site at the specified frequencies and locations as called for in Special Condition A of this permit.

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

- a. Spray Irrigation Application Rate: This permitting action is carrying forward the weekly maximum spray irrigation application rate of 2.33 million gallons per week per spray field (333,000 gallons per day per field) from the previous licensing action (permit modification dated 8/16/10). The weekly limit is based on the characteristics of in-situ soils and provides protection against hydraulically overloading and preventing runoff from the spray irrigation area.
- b. Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS): BOD5 is the rate at which organisms use the oxygen in waste water while stabilizing decomposable organic matter under aerobic conditions. BOD5 measurements indicate the organic strength of wastes in water. Monitoring for BOD5 yields an indication of the effectiveness of the lagoon treatment process and the condition of the waste water being applied. TSS monitoring consists of both settleable and non-settleable solid materials. Monitoring for TSS is used in groundwater monitoring to verify the integrity of the monitoring wells.
- c. pH: The daily maximum pH limit of 6.0 – 8.5 standard units is a best practicable treatment standard incorporated into similar waste discharge licenses issued by the Department. 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.
- d. Specific Conductance: 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.
- e. 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.
- f. 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 utilized to calibrate specific conductance values.
- g. 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. 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.

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

- h. Insecticides, Fungicides, Herbicides – Farmers may utilize herbicides (terbacil, BAM [dichlobenil], boscalid), fungicides (propiconazole), and pesticides on the crop at various times during berry-producing years. Based on varying persistence of these chemicals in water and soil, in consideration of preharvest time of application requirements, and based on the concentration of these chemicals in facility waste water, the Maine Board of Pesticide Control has recommended that levels of each of these chemicals be monitored in lagoon effluent, and groundwater monitoring locations, as documented below. Sampling for these parameters in the monitoring wells shall be conducted according to the frequency indicated in Special Condition A 3.

i. Groundwater Monitoring Wells

A summary of groundwater monitoring well results for the period 12/29/08 – 12/29/11 is as follows:

Nitrate-Nitrogen

Monitoring Well	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance Status
MW-004C	10 mg/L	0.2 – 1.3	0.7	6	100%
MW-005	10 mg/L	0.5 – 0.8	0.6	6	100%
MW-006	10 mg/L	0.4 – 0.5	0.5	6	100%

Results reported as “less than” (<) were considered present at the detection levels for calculation purposes. This permitting action is carrying forward the monitoring requirements for Nitrate nitrogen from the previous permitting action.

Depth to Water Level Below Landsurface

Monitoring Well	Limit (feet)	Range (Feet)	Average (Feet)	Number of DMRs	Compliance Status
MW-004C	Report	No data	No data	No data	No data
MW-005	Report	18 – 21	20	9	N/A
MW-006	Report	15 – 17	16	9	N/A

This permitting action is carrying forward the monitoring requirements for depth to water level below landsurface from the previous licensing action.

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

i. Groundwater Monitoring Wells

A summary of groundwater monitoring well results for the period 12/29/08 – 12/29/11 is as follows:

Specific Conductance

Monitoring Well	Limit (umhos/cm)	Range (umhos/cm)	Average (umhos/cm)	Number of DMRs	Compliance Status
MW-004C	Report	64 – 85	74	6	N/A
MW-005	Report	23 – 63	40	6	N/A
MW-006	Report	40 – 54	46	6	N/A

This permitting action is carrying forward the monitoring requirements for specific conductance from the previous permitting action.

Temperature

Monitoring Well	Limit (Deg F)	Range (Deg F)	Average (Deg F)	Number of DMRs	Compliance Status
MW-004C	Report	49 – 55	51	6	N/A
MW-005	Report	47 – 50	48	6	N/A
MW-006	Report	46 – 50	48	6	N/A

This permitting action is carrying forward the monitoring requirements for temperature from the previous permitting action.

pH

Monitoring Well	Limit (S.U.)	Range (S.U.)	Number of DMRs	Compliance Status
MW-004C	Report	6.1 – 6.7	6	N/A
MW-005	Report	5.3 – 7.2	6	N/A
MW-006	Report	6.0 – 7.0	6	N/A

This permitting action is carrying forward the monitoring requirements for pH from the previous permitting action.

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

i. Groundwater Monitoring Wells

A summary of groundwater monitoring well results for the period 12/29/08 – 12/29/11 is as follows:

Total Suspended Solids

Monitoring Well	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance Status
MW-004C	Report	5 – 73	29	6	N/A
MW-005	Report	1 – 11	4	6	N/A
MW-006	Report	1 – 3	2	6	N/A

Results reported as “less than” (<) were considered present at the detection limits for calculation purposes. This permitting action is carrying forward the TSS monitoring requirements from the previous permitting action.

Pesticides Monitoring – No data.

j. Storage Lagoon Effluent (PCS ID# 004A)

A summary of storage lagoon monitoring results for the period 12/29/08 – 12/29/11 is as follows:

BOD5

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)	Number of DMRs	Compliance
Daily Maximum	Report	210 – 1,100	667	3	N/A

This permitting action is carrying forward the BOD5 monitoring requirements from the previous permitting action.

Total Suspended Solids

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)	Number of DMRs	Compliance
Daily Maximum	Report	14 – 150	72	4	N/A

This permitting action is eliminating the TSS reporting requirements in order to maintain consistency with similar permits.

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

j. Storage Lagoon Effluent (PCS ID# 004A)

Nitrate-Nitrogen

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)	Number of DMRs	Compliance
Daily Maximum	Report	0 – 0.2	0.1	4	N/A

Results reported as “less than” (<) were considered present at the detection limits for calculation purposes. This permitting action is carrying forward the nitrate-nitrogen monitoring requirements from the previous permitting action.

Specific Conductance

Value	Limit (umhos/cm)	Range (umhos/cm)	Mean (umhos/cm)	Number of DMRs	Compliance
Daily Maximum	Report	66 – 250	195	5	N/A

This permitting action is carrying forward the specific conductance monitoring requirements from the previous permitting action.

pH

Value	Limit (S.U.)	Range (S.U.)	Number of DMRs	Compliance
Daily Maximum	Report	4.3 – 6.9	5	N/A

This permitting action is carrying forward the pH monitoring requirements from the previous permitting action.

k. Spray-Irrigation Areas (PCS ID# SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, and SA-G)

A summary of the spray-irrigation area monitoring results for the period 12/29/08 – 12/29/11 is as follows:

Application Rate

Spray Area	Weekly Max gal/ac/week	Range (gal/ac/week)	Average (gal/ac/week)	Number of DMRs	Compliance Status
SA-A	88,240	0 – 71,610	41,774	11	100%
SA-B	88,240	21,000 – 79,200	51,298	12	100%
SA-C	88,240	15,857 – 73,915	49,166	11	100%
SA-D	88,240	18,587 – 71,526	45,614	11	100%
SA-E	88,240	21,143 – 78,210	50,823	9	100%
SA-F	88,240	47,186 – 80,723	56,091	7	100%
SA-G	88,240	20,205 – 76,890	48,266	10	100%

This permitting action is carrying forward the spray-irrigation application rate of 2,331,000 gallons/week (333,000 gallons/day) from the previous permitting action (8/16/10 permit modification).

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

k. Spray-Irrigation Areas (PCS ID# SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, and SA-G)

A summary of the spray-irrigation area monitoring results for the period 12/29/08 – 12/29/11 is as follows:

Flow

Spray Area	Monthly Total (gallons)	Range (gallons)	Average (gallons)	Number of DMRs	Compliance Status
SA-A	Report	0 – 910,800	318,780	11	N/A
SA-B	Report	162,360 – 1,038,960	429,870	12	N/A
SA-C	Report	66,600 – 3,248,012	617,658	11	N/A
SA-D	Report	79,926 – 1,116,720	402,932	11	N/A
SA-E	Report	88,800 – 1,176,960	469,590	9	N/A
SA-F	Report	199,800 – 1,222,980	539,897	7	N/A
SA-G	Report	80,820 – 1,087,320	437,185	10	N/A

This permitting action is carrying forward the flow monitoring requirements from the previous permitting action.

7. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

With respect to storm water runoff discharged to Great Falls Branch, this permitting action requires the facility to submit to the Department for review and comment, maintain as current, and periodically update a Storm Water Pollution Prevention Plan (SWPPP) for the facility that is consistent with the SWPPP requirements established in the *Maine Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity*, dated April 26, 2011. As the site or any operations conducted on it have changed or are expected to change materially or substantially, the permittee shall modify its SWPPP as necessary to include such changes and notify the Department within 90 days of such modifications to the plan. The permittee shall maintain a copy of the SWPPP and any subsequent revisions at the facility and shall make the plan available to any Department or USEPA representative upon request.

The SWPPP requirements are intended to facilitate a process whereby the permittee thoroughly evaluates potential pollution sources and selects and implements appropriate measures to prevent or control the discharge of pollutants in storm water runoff. The process involves the following four steps: (1) formation of a team of qualified facility personnel who will be responsible for preparing the SWPPP and assisting the facility manager in its implementation; (2) assessment of potential storm water pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent storm water contamination and comply with the terms and conditions of the permit.

8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharges will not cause or contribute to the failure of the water body to meet standards for Class GW-A (spray irrigation) or Class A (storm water) classifications.

9. PUBLIC COMMENTS

Public notice of this application was made in the *Bangor Daily News* newspaper on or about January 23, 2012. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft licenses shall 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).

10. DEPARTMENT CONTACTS

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

Phyllis Rand
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7658 Fax: (207) 287-3435
e-mail: phyllis.a.rand@maine.gov

11. RESPONSE TO COMMENTS

During the period of March 7, 2012 through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge from the permittee's facility. The Department received written comments from the permittee in an email dated March 29, 2012. No comments were received from state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. A response to the permittee's comments is as follows.

Comment:

Wyman's staff are fine with the wording and vehicle wash area relocation with respect to the washing of heavy equipment, and larger tractors and trucks. They still believe it is necessary for efficient facility operations to have the ability to wash smaller facility vehicles, etc. at the current location in front of the facility.

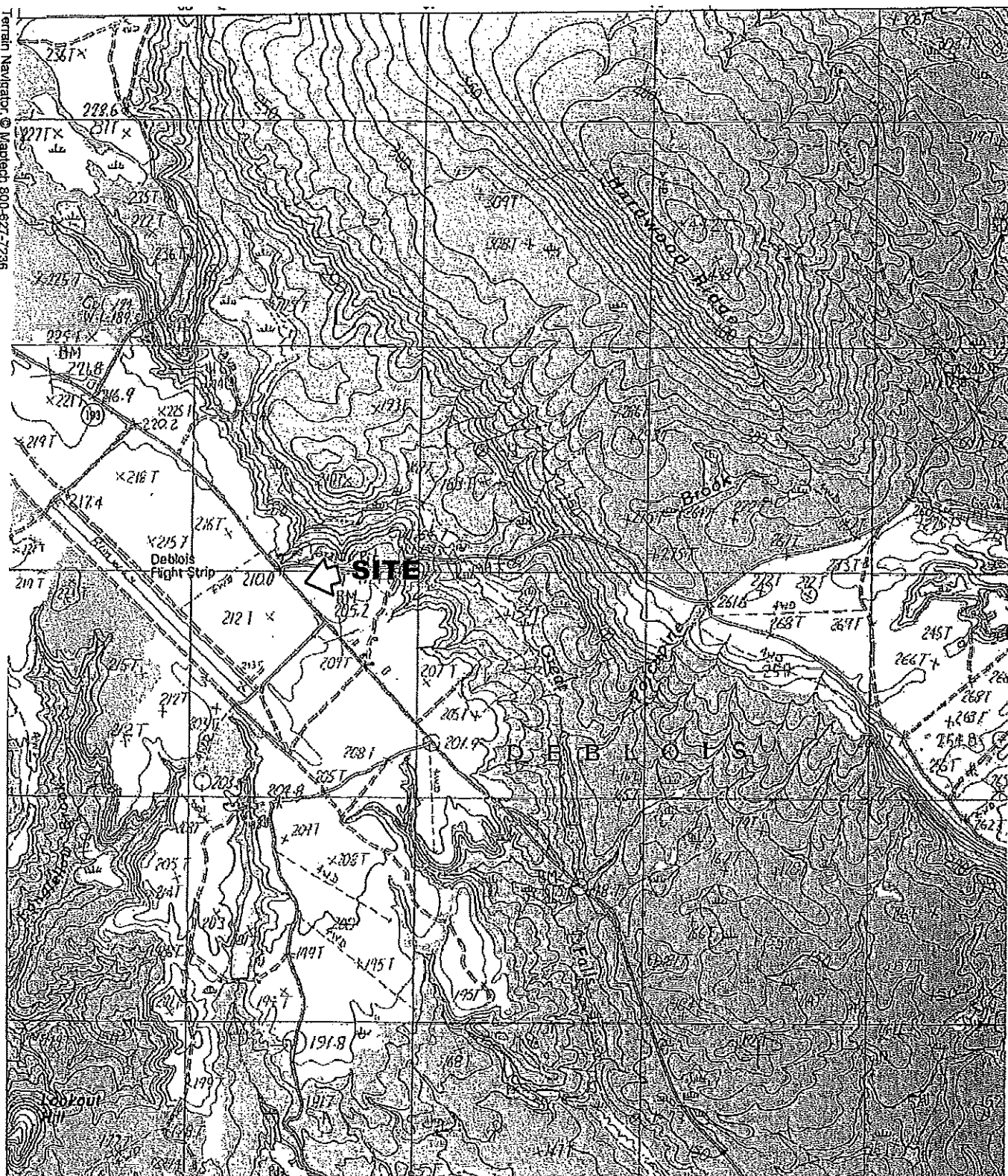
So, we are not saying the proposed area won't work for the above activity. It does, however, appear at this time that the Department is saying that the current area won't work. As noted, our licensed staff, qualified and experienced in this area, made the technical justification for the current vehicle wash operation and discharge. It was reviewed and approved by the Department in the current WDL, based on "no direct discharge to the actually recognized stream". If the Department has now changed its assessment of this activity, and discharge

11. RESPONSE TO COMMENTS (cont'd)

than Wyman's should be provided with a sound technical response as to why it can occur under the current WDL but will not be allowed in the renewal.

Response: Subsequent discussions between the Department Compliance staff and the permittee's Vice President of Operations indicate that the permittee is in agreement with the relocation of the vehicle wash water site as described in Section 2f of this Fact Sheet.

ATTACHMENT A

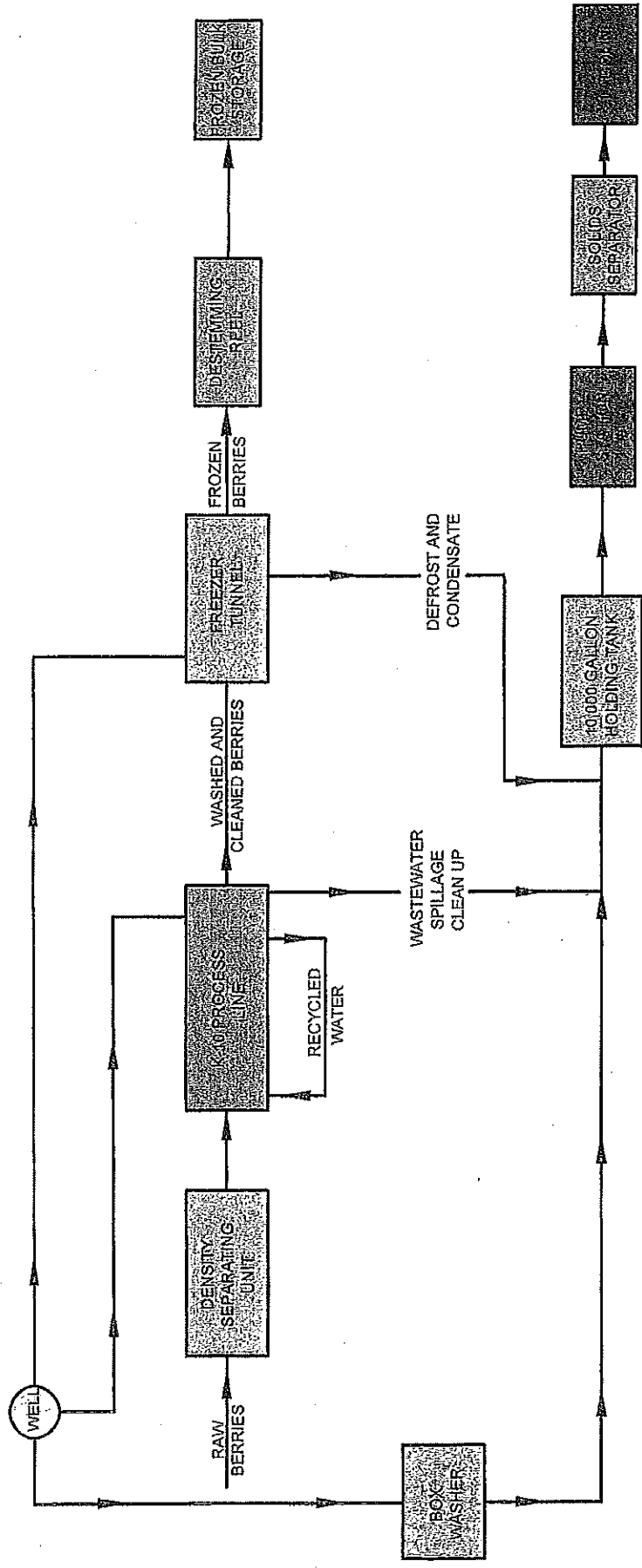


SOURCE:
U.S.G.S. TOPOGRAPHIC QUADRANGLE
SCHOODIC LAKE
@ 1:24,000
UTM COORDINATES
ZONE 19, NAD83
16250491.37 N
1904679.24 E

CES INC
JASPER WYMAN AND SON, INC.
ROUTE 193, DEBLOIS, MAINE
LOCATION MAP

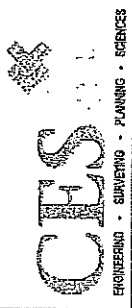
3/1/2011
949.12

ATTACHMENT B



JASPER WYMAN AND SON, INC.
DEBLOIS FACILITY - DEBLOIS, MAINE
WATER USE SCHEMATIC LINE #1

BY: BH	DWG:
DATE: 1/4/2012	
REV:	JN: 949.12
REV DATE:	SCALE: NTS



ATTACHMENT C

ATTACHMENT D



Standard Operating Procedure
Bureau of Land and Water Quality
Date: April 20, 2006
Doc num: DEPLW0768

**Bureau of Land and Water Quality
Division of Watershed Management
Industrial Stormwater Program**

Standard Operating Procedure
Guidelines For Visual Monitoring of Stormwater Discharges Associated With Industrial Activities.

1. **APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all industrial facilities covered under the Maine Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity regardless of the facility's industrial sector code. All permitted facilities are required to perform quarterly visual monitoring of their stormwater discharges associated with industrial activity as part of their Stormwater Pollution Prevention Plans (SWPPP) in order to achieve compliance with the Multi-Sector General Permit.
2. **PURPOSE.** To provide guidelines for standardized methods for sample collection and visual examination of industrial stormwater discharges for indicators of stormwater pollution as defined in Part V of the Maine MSGP. To provide guidelines describing standardized methods of data recording and record keeping of all quarterly visual stormwater discharge monitoring data. These guidelines are described in Part 5 of the MSGP.
3. **DEFINITIONS.**
 - 3.1. **Multi-Sector General Permit (MSGP)** A general permit for Stormwater Discharges Associated with Industrial Activities. Authorizes the direct discharge of stormwater associated with industrial activity to waters of the State other than groundwater, provided the discharge meets the requirements stated in this permit. This permit is effective October 11, 2005 and expires October 11, 2010. It replaces EPA's MSGP for Industrial Activities issued October 30, 2000.
 - 3.2. **SWPPP.** Stormwater Pollution Prevention Plan. A plan developed and implemented by each industrial facility. It outlines sources of potential stormwater pollutants and the methods by which these pollutants will be reduced or prevented from entering waters of the State. The Plan identifies in writing a SWPPP team of facility personnel as well as a SWPPP team leader who is ultimately responsible for SWPPP implementation.
 - 3.3. **GRAB SAMPLE.** Sample of stormwater discharge taken as a single uninterrupted event (i.e., grabbed at one time) from a single stormwater outfall from the industrial facility. The sample may be collected manually or with an automatic sampler.
 - 3.4. **OUTFALL.** Any location such as a ditch, rill, pipe, storm drain, boat ramp, or detention pond exit where shallow concentrated flow of stormwater leaves an industrial facility.
 - 3.5. **MEASURABLE STORM EVENT.** Any storm event that yields at least 0.1 inch of precipitation.

Standard Operating Procedure Guidelines For Visual Monitoring of Stormwater Discharges Associated With Industrial Activities. Division of Watershed Management, Industrial Stormwater Program



4. RESPONSIBILITIES.

- 4.1. **MONITORING PROGRAM IMPLEMENTATION.** The schedule for performing visual examinations should be clearly documented in the facility's SWPPP. The permittee must perform and document a quarterly visual examination of industrial stormwater discharges from each outfall which discharges stormwater associated with industrial activity from the facility.
- 4.2. **OUTFALL IDENTIFICATION.** The permittee must identify each industrial stormwater outfall at the facility. All outfalls shall be clearly identified on the facility site map which is part of the facility's SWPPP and also listed in the written text of the SWPPP.
- 4.3. **EMPLOYEE TRAINING.** The permittee is responsible for ensuring that all facility personnel involved in stormwater sampling are properly trained to do so. Staff involved in sampling should:
 - a. Be familiar with the site map and outfall locations
 - b. Walk the site to physically identify each sampling location
 - c. Become familiar with local rainfall and drainage patterns
 - d. Learn proper procedures for measuring rainfall
 - e. Become competent with proper sample collection procedures

Personnel involved in sampling should also be trained in all facility safety procedures as they apply to stormwater sampling. Where practicable the same individual should carry out the collection and examination of discharges for the entire permit term. Written documentation signed by the SWPPP team leader certifying that all personnel involved in sampling have been properly trained should be maintained onsite with the SWPPP.

- 4.4. **SAMPLE COLLECTION FREQUENCY.** Visual examinations of industrial stormwater discharges must be performed once per monitoring quarter. If no measurable storm event resulted in discharge from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided the permittee documents in the monitoring records that no runoff occurred. Schedule of monitoring quarters is listed below.

- First: October 1 to December 31
- Second: January 1 to March 31
- Third: April 1 to June 30
- July 1 to September 30

All other time specific sampling requirements are to be performed in accordance with the parameters outlined in the procedures section of this document.



- 4.5. **RECORD KEEPING AND REPORTING.** The permittee must maintain reports of all visual examinations conducted onsite with the SWPPP. The permittee is not required to submit visual examination results to DEP unless specifically asked to do so. Requirements for recording visual examination data are outlined in the procedures section of this document.

5. PROCEDURES

- 5.1. **MEASURING RAINFALL.** All facilities required to perform visual monitoring of industrial stormwater discharges should have a rain gauge on site for measuring rainfall. The rain gauge may be a standard rain gauge, tipping bucket gauge, weighing type gauge, float recording gauge, or any other National Weather Service approved device for measuring rainfall to the nearest 0.1 inch. To minimize measurement errors, the gauge should be placed on a level surface that is not windswept and is away from trees or buildings that might interfere with the path of rainfall. The gauge should be regularly inspected by sampling personnel to ensure that it is in good working order and capable of accurately measuring rainfall to the nearest 0.1 inch.
- 5.2. **SAMPLE COLLECTION TIMING.** A grab sample must be collected from each facility outfall once per monitoring quarter during a measurable storm event that occurs at least 72 hours from the previously measurable storm event. The 72 hour interval is waived when the preceding measurable storm did not yield a measurable discharge. During a measurable storm event, a grab sample for visual examination should be collected during the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours of when runoff begins discharging from areas of exposed industrial activity. During monitoring quarters when snowmelt represents the only stormwater discharge, a grab sample must also be collected during periods of significant snowmelt within the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours) of when snowmelt begins discharging from areas of exposed industrial activity. Stormwater runoff from employee parking lots, administration buildings, and landscaped areas that is not mixed with stormwater associated with industrial activity, or stormwater discharges to municipal sanitary sewers does not need to be sampled.
- 5.3. **SAMPLE CONTAINER CLEANING AND PREPARATION.** The facility should have an adequate supply of containers prepared for collection of industrial stormwater samples from each outfall prior to collecting samples for visual examination. All sample containers used for sampling for visual examination should be certified as clean and free of residue by the container manufacturer, or cleaned according to the following procedure.
- 5.3.1. Wash containers in a non-phosphate detergent and tap water wash.
 - 5.3.2. Thoroughly fill and rinse containers with tap water at least three (3) times.
 - 5.3.3. Store containers closed, and in an area free of dust and other potential sample contaminants.



- 5.3.4. If additional containers are needed to collect samples from less accessible outfalls (i.e. buckets which are attached to poles for reaching outfalls), these containers should also be cleaned and prepared as indicated above.
- 5.4. **SAMPLE COLLECTION.** Samples should be examined in clear glass or clear plastic container prepared and cleaned as indicated above, so that all visual monitoring criteria can be observed.
- 5.4.1. **MANUAL GRAB SAMPLE COLLECTION.** Manual grab samples should be collected by inserting a container under or downstream of a discharge with the container opening facing upstream, and with the opening of the container completely immersed under water, whenever possible. Small containers (ideally 250 ml to 750 ml or approximately 8 to 24 ounces in size) are recommended in order to be able to submerge the container opening under water while still collecting an adequate sample size to make a correct visual inspection. In most cases the sample container can be held in hand while the sample is collected. Less accessible outfalls may require the use of poles and buckets to collect grab samples. Take the grab from the horizontal and vertical center of the outfall. If sampling in a channel, (i.e., ditch, trench, rill) avoid stirring up bottom sediments. Avoid touching the inside of the container to prevent contamination. Transfer sample to a clear glass or plastic container if using another container such as a bucket to collect a sample from a less accessible location. If taking samples from multiple outfalls, label containers with outfall identification prior to taking samples. Make sure samples are securely capped until examination.
- 5.4.2. **COLLECTION OF GRAB SAMPLES BY AUTOMATIC SAMPLER.** Facilities which use automatic samplers for stormwater sampling may collect grab samples for visual examination by this method. Programming for collecting grab samples is specific to the type of automatic sampler. All facility personnel who collect stormwater samples using automatic samplers should be properly trained in operation of the sampler before doing so. Several different types of automatic samplers are available for stormwater sampling. However, the following guidelines should be followed when sampling regardless of the type of sampler used. All equipment must be properly cleaned, particularly the tubing and sample containers. Deionized water should be drawn through the sampler to remove any residuals prior to taking samples. Tubing should also be periodically replaced to avoid algae or bacterial growth. Additionally, a distilled/deionized water blank sample should be taken at each outfall sampled to determine if contamination of stormwater samples by the sampling equipment has occurred. Samplers should be used in exact accordance with the manufacturers' instructions. All sampler calibration and maintenance data should be kept on site with the SWPPP.



- 5.5. **SAMPLE EXAMINATION.** Visual examination of all grab samples collected must be performed within the first sixty (60) minutes (or as soon thereafter as practicable, but not to exceed 2.25 hours) of when the runoff or snowmelt begins discharging from the facility. Collect the samples and bring them to a well lit indoor area. Pour each sample into a separate 1 L polycarbonate plastic graduated Imhoff cone. The cone should have graduations that allow volume measurement to the nearest milliliter. Record the total sample volume to the nearest milliliter on the visual monitoring form. Examine the samples for the following criteria according to the instructions provided with the visual monitoring form: Foam, odor, clarity, floating solids, suspended solids, color, oil sheen, settled solids, and any other obvious indicators of stormwater pollution. Read the settled solids 1 hour after pouring the sample into the cone, this assures all solids are settled out of the water. Settled solids in the bottom of the cone should be measured to the nearest milliliter. It is also recommended that a sample of tap water be collected in the same type of container used to collect the samples and used as a comparison to aid in evaluating the samples for the criteria stated above.

*Note: Clear polycarbonate plastic Imhoff cones are available from several scientific supply companies. See section 6 for a list of suppliers.

- 5.6. **SAMPLE DATA RECORDING.** Record all sample data on the visual monitoring form (Attachment B) after examining the sample for all of the criteria listed in the instructions (Attachment A). The form should include the examination date and time, examination personnel, the nature of the discharge (i.e., rain or snowmelt), identification of outfall sampled, quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and any other obvious indicators of stormwater pollution), and probable sources of any observed contamination. The permittee must sign and certify the documentation in accordance with Part VII (E) of the Maine MSGP. All visual examination reports must be maintained on site with the SWPPP.
- 5.7. **RECOMMENDATIONS FOR SOLVING SAMPLE LOCATION PROBLEMS.** Consult guidelines listed below when it is necessary to sample an outfall located at a less than ideal location for sampling.
- **PROBLEM:** Sampling where stormwater comingles with process or non process water.
RECOMMENDATION: Attempt to sample the stormwater discharge before it mixes with the non-stormwater discharge. If this is impossible, sample the discharge both during dry and wet weather and maintain a record of the visual examination data observed under both conditions on site with the SWPPP. This will provide an indication of the contribution of any observable contamination from each source.
 - **PROBLEM:** Numerous small point channels make up an outfall from which it is difficult to collect a sample.



RECOMMENDATION: Impound channels or join their flow together by building a weir or digging a ditch to collect discharge at a low point for sampling. This artificial collection point should be lined with plastic to prevent infiltration and/or high levels of sediment.

- **PROBLEM:** Inaccessible discharge point (examples include underwater discharges or unreachable discharges (e.g., out of a cliff).
RECOMMENDATION: Go up the pipe to sample (i.e., to the nearest manhole or inspection point). If these are not available, tap into the pipe, or sample at several locations upstream of the pipe if the pipe is the only outfall for the facility.
- **PROBLEM:** Managing multiple sampling sites to collect grab samples during the first 60 minutes of a measurable storm event.
RECOMMENDATION: Have a sampling crew ready for mobilization when forecasts indicate a measurable storm event is likely to occur. If this is not possible, sample missed outfall locations during other measurable storm events.
- **PROBLEM:** Commingling of parking lot runoff with discharge associated with industrial activity.
RECOMMENDATION: The combined runoff must be sampled at the discharge point as near as possible to the industrial activity or at the parking lot drain inlet if there is one.
- **PROBLEM:** Sampling in manholes
RECOMMENDATION: Sample with a collection device on the end of a pole to reach stormwater. Personnel sampling in manholes should have confined space safety training if manhole has to be entered.
- **PROBLEM:** Run-on from other property.
RECOMMENDATION: If possible, collect and examine a sample of the stormwater at the border of the property where the run-on occurs. Then, collect and examine a sample of the stormwater at a facility outfall downstream of the run-on point. Note any observable differences between the samples and maintain the documentation with the SWPPP.
- When confronted with other difficult sampling scenarios not addressed above, the permittee should consult DEP for guidance on how to best address the situation.



6. REFERENCES

- 6.1. GUIDANCE MANUAL FOR THE MONITORING AND REPORTING REQUIREMENTS OF THE NPDES MULTI-SECTOR STORM WATER GENERAL PERMIT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-B-99-001(January, 1999)
- 6.2. NPDES STORM WATER SAMPLING GUIDANCE DOCUMENT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-8-92-001 (July, 1992)
- 6.3. STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION MULTI-SECTOR GENERAL PERMIT MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY
Maine Department of Environmental Protection, Bureau of Land and Water Quality, Waste Discharge License # W-008227-5Y-A-N (October 11, 2005)

***Notes: List of Vendors that Supply One Liter (1L) Clear Polycarbonate Imhoff Cones**

Forestry Suppliers Inc.
PO Box 8397
Jackson, MS 39284
(800) 752-8460
www.forestry-suppliers.com

Lab Safety Supply Inc.
PO Box 1368
Janesville, WI 53547-1368
(800) 356-0783
www.labsafety.com

Nalge Nunc International
International Dept.
75 Panorama Creek Dr.
Rochester, NY 14625
(800) 625-4327
www.nalgenelabware.com

Pollard Water
200 Atlantic Ave.
Hyde Park, NY 11040
800-437-1146
www.pollardwater.com

Standard Operating Procedure Guidelines For Visual Monitoring of Stormwater Discharges Associated With Industrial Activities. Division of Watershed Management, Industrial Stormwater Program



Standard Operating Procedure
Attachment A
Bureau of Land and Water Quality
Date: April 20, 2006
Doc num: DEPLW0768

Instructions for Completing the Visual Monitoring Form

1. Completely fill out all required information on the top of the visual monitoring form.
2. Pour the sample into a 1 L clear polycarbonate Imhoff cone. Record the total sample volume measured in the cone to the nearest milliliter. Evaluate the sample for the following parameters according to the following instructions.
 - **Foam:** This must be done first. Examine the sample for foam immediately after pouring it into the cone. Record foam results on the visual monitoring form as they most closely match one of the descriptions listed below.
 - i. **None**-Most bubbles break down within ten (10) seconds of pouring; only a few large bubbles persist longer than ten (10) seconds.
 - ii. **Moderate**-Many small bubbles are present but these bubbles persist for less than two (minutes) after pouring.
 - iii. **High**-Many small bubbles are present and they persist longer than two (2) minutes after pouring.
3. Examine the sample for the following criteria after it has settled for ten (10) minutes. Record the results on the visual monitoring form as they most closely match the descriptions listed below.
 - **Color:** Record the best description of the sample color in the appropriate space on the visual monitoring form.
 - **Odor:** If sample has no odor other than natural rainwater or snowmelt write "normal" on the visual monitoring form. Note the presence of any of the following odors if detected: Gasoline, diesel, oil, solvents (WD-40, other petroleum products, etc.), landfill, fishy, glycol, any other unusual odors not normally present in clean runoff from the area sampled.
 - **Clarity:** Record sample clarity results as they most closely match one of the descriptions listed below.
 - i. **Clear**-Sample doesn't filter out any light, can be seen through regardless of color.
 - ii. **Cloudy**-Sample filters out some light; not clear but objects can still be identified when looking through the cone.
 - iii. **Very Cloudy**-Sample filters out most light; objects are indiscernible when looking through the cone.
 - iv. **Opaque**-Sample doesn't allow any light to pass through; objects cannot be seen when looking through the cone.



Standard Operating Procedure
Attachment A
Bureau of Land and Water Quality
Date: April 20, 2006
Doc num: DEPLW0768

- **Floating Solids:** Give a general description of the type of floating solids present (wood chips, leaf debris, algae, etc) in the general comments section for each sample. Record results for amount floating solids present as they most closely match the descriptions listed below. Record amount data in the appropriate box on page 1 of the visual monitoring form.
 - i. **None-** No floating solids present on the surface of the sample.
 - ii. **Slight-** Only a few floating particles observed on the surface of the sample.
 - iii. **Moderate-** Less than 20% of the surface of the sample is covered with floating solids.
 - iv. **High-** More than 20% of the surface of the sample is covered with floating solids.
 - **Settled Solids:** Give a general description of the type of settled solids present (sand, decayed plant matter, rust particles etc) in the general comments section for each sample. Allow settle for one hour. Measure the settled solids in the bottom of the cone to the nearest milliliter and record the results in the appropriate box on page 1 of the visual monitoring form.
 - **Suspended solids:** In the general comments section for each sample, give a general description of the type of solids present if any are observed suspended below the sample surface. Record whether or not settled solids were present in the appropriate box on page 1 of the visual monitoring form.
 - **Oil Sheen:** Record whether or not an oil sheen is present in the sample.
 - **General Comments Section on Page 2:** Make sure you have described the type of floating, settled and suspended solids observed in the samples in the general comments section provided for each outfall sample. Also note the following conditions at each outfall during the time sampled: General volume of water and flow, algae (if any is present), odor, color, and any other unusual characteristics noticed at the sampling location. Record the number of days since the last known measurable storm or runoff event.
4. Ensure that all visual monitoring forms are filed on site with the Stormwater Pollution Prevention Plan (SWPPP) each time visual monitoring is done.



Standard Operating Procedure
Bureau of Land and Water Quality
Attachment B
Date: April 20, 2006
Doc num: DEPLW0768

Visual Monitoring Form

Facility Name	<hr/>	Sampler's Name	<hr/>
Facility Address	<hr/>	MSGP Permit Number	<hr/>
	<hr/>		<hr/>

OUTFALL NUMBER						
OBSERVATION TIME						
EST. TIME FROM ONSET OF RUNOFF						
DISCHARGE TYPE Rain or Snowmelt						
COLOR						
ODOR						
CLARITY						
FLOATING SOLIDS*						
SETTLED SOLIDS*						
SUSPENDED SOLIDS*						
FOAM						
OIL SHEEN						
Probable source of any observed contamination						

*Enter description of these criteria in the general comments section for each outfall on the back of this page.

Sampler's Signature <hr/>	Date <hr/>
---------------------------	------------



Standard Operating Procedure
Bureau of Land and Water Quality
Attachment B
Date: April 20, 2006
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General Comments

<p>In the comments section, enter physical description of floating, settled, and suspended solids for each outfall sampled. Enter general comments on the condition and appearance of each outfall in the comments section also as indicated in the instructions.</p>	
Outfall 1	<p><u>Comments:</u></p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
Outfall 2	<p><u>Comments:</u></p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
Outfall 3	<p><u>Comments:</u></p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
Outfall 4	<p><u>Comments:</u></p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
Outfall 5	<p><u>Comments:</u></p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
Outfall 6	<p><u>Comments:</u></p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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).

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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 of 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 MAINTENANCE 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

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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.

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- (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.

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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.

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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

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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).

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- (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.

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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 contaminants 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.

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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.

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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: March 2012

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner: (1) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in 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.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by the Board's receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal 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.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

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, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is 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 your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
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. A license holder may proceed with a project pending the outcome of an appeal but the license holder 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 formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

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.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & 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. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

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.A. § 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's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: 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.
