



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



PAUL MERCER
COMMISSIONER

March 7, 2018

Mr. Jeff Wiers
Dexter Utilities District
25 Main Street
Dexter, Maine 04930
<mailto:dexterwater@roadrunner.com>

*Sent via electronic mail
Delivery confirmation requested*

RE: ICIS Tracking Number #MEU500830
Maine Waste Discharge License (WDL) W000830-6C-G-R
Final License

Dear Jeff Wiers:

Enclosed please find a copy of your **final** MEPDES license which was approved by the Department of Environmental Protection. Please read this permit/license renewal and its attached conditions carefully. Compliance with this permit/license will protect water quality.

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 the matter, please feel free to call me at 207-592-7161.

Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Aaron Dumont
Division of Water Quality Management Bureau of
Water Quality Aaron.A.Dumont@maine.gov
Phone: 207-592-7161

Enc. Mike Loughlin, DEP/EMRO, Lori Mitchell, DEP/CMRO, Olga Vergara, EPA, Marelyn Vega,
EPA, Richard Carvalho, EPA, Sandy Mojica, EPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

DEXTER UTILITY DISTRICT)	PROTECTION AND IMPROVEMENT
DEXTER, PENOBSBOT COUNTY, ME)	OF WATERS
SURFACE WASTEWATER DISPOSAL SYSTEM)		
MEU500830)	WASTE DISCHARGE LICENSE
W000830-6C-G-R)	RENEWAL
APPROVAL		

Pursuant to *Conditions of licenses*, 38 M.R.S. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of DEXTER UTILITY DISTRICT (licensee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On March 30, 2017, the Department accepted as complete for processing an application from the licensee for the renewal of Waste Discharge License (WDL) #W000830-6C-F-R which was issued by the Department on November 2, 2012, for a five-year term. The 11/2/2012 license authorized the operation of a surface wastewater disposal (spray-irrigation) system for the treatment and seasonal disposal of 100 million gallons, annually, of treated sanitary wastewater to land in the Town of Dexter, Maine. The treatment system was designed for a sanitary wastewater influent flow of 273,000 gallons per day (0.273 MGD). The facility has been assigned Integrated Compliance Information System (ICIS) tracking number MEU500830.

LICENSE SUMMARY

This licensing action is carrying forward all the terms and conditions of the previous licensing action and subsequent permit modifications except for the following:

1. Revises Special Condition G. *Spray-irrigation Operational Constraints, Logs and Reports* to the most recent licensing language (and eliminates the annual requirement to calibrate each of 1600 individual spray heads and put emphasis to proper system maintenance and application rates for each spray field).
2. Revises Special Condition K. *Ground Water Monitoring Wells And Water Quality Monitoring Plan Details* to the most currently licensing language.

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CONCLUSIONS

Based on the findings summarized in the attached and incorporated Fact Sheet dated March 1, 2018, and subject to the special and standard conditions that follow, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S. § 464(4)(F), will be met, in that:
 - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - b. Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
 - c. Where the standards of classification of the receiving waterbody are not met, the discharge will not cause or contribute to the failure of the waterbody to meet the standards of classification;
 - d. Where the actual quality of any classified receiving waterbody exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - e. Where a discharge will result in lowering the existing water quality of any waterbody, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D).

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ACTION

THEREFORE, the Department APPROVES the above noted application of DEXTER UTILITY DISTRICT to operate a surface wastewater disposal system (spray irrigation) to dispose of up to 2,871,000 gallons per week of treated wastewater to (spray fields #9-14) and 9,570,000 gallons per week (spray fields #1-8, 15-16) during the period of April 15 – November 15, annually depending on weather and site conditions, to the soil above ground water resources of the state, Class GW-A, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

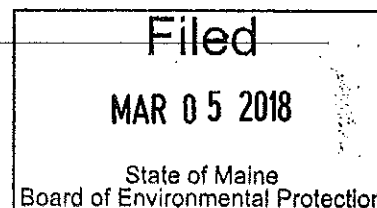
1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This license and the authorization to discharge become effective 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 license, the authorization to discharge and the terms and conditions of this license and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [Maine Administrative Procedure Act, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended October 19, 2015)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 5th DAY OF March 2018.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for PAUL MERCER, Commissioner



Date filed with Board of Environmental Protection _____

Date of initial receipt of application: March 29, 2017

Date of application acceptance: March 30, 2017

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of this license, the licensee is authorized to operate a surface wastewater treatment and disposal system. The **STORAGE LAGOON EFFLUENT⁽¹⁾ (OUTFALL #001A)** must be limited and monitored as specified below:

Parameter	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Biochemical Oxygen Demand <i>[00310]</i>	100 mg/L <i>[19]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
Total Suspended Solids <i>[00530]</i>	100 mg/L <i>[19]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
Nitrate-Nitrogen <i>[00620]</i>	Report mg/L <i>[19]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
<u>Metals (Total)</u> : Arsenic, Cadmium, Chromium, Copper, Lead, Nickel and Zinc <i>[01002, 01027, 01034, 01042, 01051, 01067, 01092]</i>	Report ug/L <i>[28]</i>	1/5 Years ⁽²⁾ <i>[01/5Y]</i>	Grab <i>[GR]</i>

The bracketed italicized numeric values in the table above and the tables that follow are code numbers that the Department personnel utilize to code the monthly Discharge Monitoring Reports.

FOOTNOTES: See Pages 8 – 9 of this license for applicable footnotes.

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SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

2. The **SPRAY IRRIGATION FIELD** must be limited and monitored as specified below for land application between April 15th and November 15th of each year:

(SF#9, SF#10, SF#11, SF#12, SF#13, SF#14)

Parameter	Monthly <u>Total</u> as specified	<u>Weekly Maximum</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u>
Application Rate (Weekly) [51128]	---	478,500 gallons/week ⁽³⁾ [57]	---	1/Week [01/07]	Calculate [CA]
Flow – Total Gallons [51500]	Report (Gallons) [57]	---	---	1/Month [01/30]	Calculate [CA]

The bracketed italicized numeric values in the table above and the tables that follow are code numbers that the Department personnel utilize to code the monthly Discharge Monitoring Reports.

(SF#1, SF#2, SF#3, SF#4, SF#5, SF#6, SF#7, SF#8, SF#15, SF#16)

Parameter	Monthly <u>Total</u> as specified	<u>Weekly Maximum</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u>
Application Rate [51128]	---	957,000 gallons/week ⁽³⁾ [57]	68,357 gallons/day [57]	1/Day [01/01]	Calculate [CA]
Flow – Total Gallons [51500]	Report (Gallons) [57]	---	---	1/Month [01/30]	Calculate [CA]

The bracketed italicized numeric values in the table above and the tables that follow are code numbers that the Department personnel utilize to code the monthly Discharge Monitoring Reports.

Footnotes: Refer to pages 8 – 9 for footnotes.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. **GROUND WATER MONITORING WELLS MW1D (102), MW1E (104), MW1F (105), AND MW1G (106)** must be limited and monitored as specified below:

Parameter	Daily <u>Maximum</u> As specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Depth to Water Level Below Landsurface [72019]	Report (feet) [27]	2/Year ⁽⁴⁾⁽⁵⁾ [02/YR]	Measure [MS]
Nitrate-Nitrogen [00620]	10 (mg/L) [19]	2/Year ⁽⁵⁾ [02/YR]	Grab [GR]
Specific Conductance ⁽⁶⁾ [00095]	Report (umhos/cm) [11]	2/Year ⁽⁵⁾ [02/YR]	Grab [GR]
Temperature (°C) ⁽⁶⁾ [00010]	Report (°C) [15]	2/Year ⁽⁵⁾ [02/YR]	Grab [GR]
pH (Standard Units) ⁽⁶⁾ [00400]	Report (S.U.) [12]	2/Year ⁽⁵⁾ [02/YR]	Grab [GR]
Total Suspended Solids [00530]	Report (mg/L) [19]	2/Year ⁽⁵⁾ [02/YR]	Grab [GR]
<u>Metals (Total)</u> : Arsenic, Cadmium, Chromium, Copper, Lead, Nickel and Zinc [01002, 01027, 01034, 01042, 01051, 01067, 01092]	Report (ug/L) [28]	1/5 Years ⁽²⁾ [02/5Y]	Grab [GR]

The bracketed italicized numeric values in the table above and the tables that follow are code numbers that the Department personnel utilize to code the monthly Discharge Monitoring Reports.

Footnotes: Refer to pages 8 – 9 for footnotes.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

4. Sampling of **LAGOON UNDERDRAIN SYSTEM** must be conducted as specified below⁽¹⁾:

OUTFALL #001B –*Underdrain beneath the treatment lagoons.*

Parameter	Daily <u>Maximum</u> As specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Flow Rate [00058]	Report GPM [78]	3/Year ⁽⁷⁾ [03/YR]	Measure [MS]
Specific Conductance [00095]	Report (umhos/cm) [11]	3/Year ⁽⁷⁾ [03/YR]	Measure [MS]
Temperature (°C) [00010]	Report (°C) [15]	3/Year ⁽⁷⁾ [03/YR]	Measure [MS]

The bracketed italicized numeric values in the table above and the tables that follow are code numbers that the Department personnel utilize to code the monthly Discharge Monitoring Reports.

Footnotes: Refer to pages 8 – 9 for footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES: Special Condition A(1), A(2), A(3), & A(4)

Sampling – Any change in sampling location must be approved by the Department in writing. The licensee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a publicly owned treatment works (POTW) pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective April 1, 2010). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10 – 144 CMR 263. If the licensee monitors any pollutant more frequently than required by the license using test procedures approved under 40 CFR Part 136 or as specified in this license, the results of this monitoring must be included in the calculation and reporting of the data submitted in the discharge monitoring report (DMR).

1. **Lagoon Effluent Sampling** – Lagoon effluent sampling must be conducted at a minimum frequency of once per month during the months of **April, May, August, and October** of each year, unless otherwise specified by the Department. In the event that no wastewater is disposed of via the spray irrigation system for an entire month, the licensee is not required to conduct effluent monitoring as otherwise required in Special Condition A.1 of this license.
2. **Screening level metals testing** – The licensee must conduct one round of testing for the specified metals **during the fourth calendar quarter of the fourth year of the license**, unless otherwise specified by the Department.
3. **Weekly Maximum for Spray Irrigation** – “Weekly” is defined as Sunday through Saturday. A field's daily or weekly application rate is the total gallons sprayed over the applicable period of time divided by the size of the area of the field(s) utilized. Note: 27,152 gallons is equivalent to one acre-inch. The licensee must measure the flow of wastewater to the irrigation area by the use of a flow measuring device that is checked for calibration at least once per calendar year. For DMR reporting purposes, the licensee must report the highest daily and weekly application rate for the month in the applicable box on the form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.
4. **Depth to Water Level** – Depth to water level must be measured to the nearest one-tenth (1/10th) of a foot as referenced from the surface of the ground at the base of the monitoring well.
5. **Ground Water Monitoring Period** – Monitoring wells must be sampled during the months of **May and October** of each year, unless otherwise specified by the Department.

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SPECIAL CONDITIONS

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

FOOTNOTES: Special Condition A(1), A(2), A(3), & A(4)

6. **Field Measurements** – Specific conductance (calibrated to 25.0° C), temperature, and pH are considered to be “field” parameters, and are to be measured in the field via instrumentation. The licensee is required to test for these parameters whether wastewater was disposed of via the spray-irrigation system or not.
7. **Lagoon Underdrain Monitoring** – Lagoon underdrain sampling must be conducted in the months of **July, August and September** of each year.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent must not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the use designated by the classification of the groundwater.
2. The effluent must not lower the quality of any classified body of groundwater below such classification, (ground water is a classified body of water under 38 M.R.S. § 465-C) 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 management responsibility over the treatment facility must hold a minimum of a **Maine Grade II**, Biological Treatment certificate (or Registered Maine Professional Engineer) pursuant to *Sewage Treatment Operators*, 32 M.R.S. §§ 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.

D. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the licensee must notify the Department of the following:

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to the system at the time of license issuance.
2. For the purposes of this section, notice regarding substantial change must include information on:
 - a. the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
 - b. any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

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SPECIAL CONDITIONS

E. AUTHORIZED DISCHARGES

The licensee is authorized to discharge only in accordance with: 1) the licensee's General Application for Waste Discharge License, accepted for processing on March 30, 2017; 2) the terms and conditions of this license; and 3) only to the existing spray-irrigation fields (Fields #1-#16) and from those sources as indicated in the accepted Waste Discharge License Application dated 3/30/2017.

Discharges of wastewater from any other point source(s) are not authorized under this license, and must be reported in accordance with Standard Condition D(1)(F), *Twenty-four hour reporting*, of this license.

F. GENERAL OPERATIONAL CONSTRAINTS

1. All wastewater must receive biological treatment through a properly designed, operated and maintained treatment system prior to disposal via spray irrigation.
2. The spray-irrigation facilities must be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of groundwater which will render it unsatisfactory for use as a public drinking water supply.
3. The surface wastewater disposal system must not cause the lowering of the quality of the groundwater, as measured in the groundwater monitoring wells specified by this license, below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to *Drinking Water Regulations*, 22 M.R.S. §2611. In the event that groundwater monitoring results indicate lowering of the existing groundwater quality, the licensee may be required to take immediate remedial action(s), which may include, but not be limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, groundwater remediation, or ceasing operation of the system until the groundwater attains applicable standards.
4. The Department must be notified as soon as the licensee becomes aware of any threat to public health, unlicensed discharge of wastewater, or any malfunction that threatens the proper operation of the system. Notification must be made in accordance with the attached Standard Condition #4 of this license.
5. The licensee must maintain a file on the location of all system components and relevant features. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells must be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports. Each component must be mapped and field located sufficiently to allow adequate inspections and monitoring by both the licensee and the Department.
6. The licensee must cease irrigation if runoff is observed outside the designated boundaries of the spray area(s). The licensee must field calibrate equipment to ensure proper and uniform spray applications when operating. Calibration involves collecting and measuring application rate at different locations within the application area. A description of the calibration procedures and a log sheet that have been used for calibration results must be included as part of the Operations & Maintenance manual.

SPECIAL CONDITIONS

G. SPRAY-IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

1. Wastewater may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff outside the designated boundaries of the spray fields. There must 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 must be present prior to spray irrigation.
3. No wastewater must be applied to the site following a rainfall accumulation exceeding 1.0 inch within the previous 24-hour period. **A rain gauge must be located on site to monitor daily precipitation.** The licensee must also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.
4. No wastewater must be applied where there is snow present on the surface of the ground.
5. No wastewater must be applied when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
6. No traffic or equipment must be allowed in the spray-irrigation field except where installation occurs or where normal operations and maintenance are performed.
7. The licensee must install the equivalent of one ground water level inspection well per spray field to verify that 10 inches of separation from the ground surface to the observed ground water level is present prior to spraying. Depths to ground water must be recorded in accordance with the general format of “*Monthly Operations Log*” provided as **Attachment A** of this license or other format as approved by the Department.
8. The licensee must at all times maintain in good working order and operate at maximum efficiency all wastewater collection, treatment and/or control facilities. **After start-up of the spray irrigation system,** the licensee must walk the spray-irrigation site or have other means to check the system for leakage in the piping system and determine if individual sprayheads and pump(s) are functioning as designed, and verify that application rates are appropriate for the existing site conditions. Should significant malfunctions or leaks be detected, the licensee must shut down the malfunctioning portion of the spray system and make necessary repairs before resuming operation. The licensee must cease irrigation if runoff is observed outside the designated boundaries of the spray field.

SPECIAL CONDITIONS

G. SPRAY-IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

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

H. VEGETATION MANAGEMENT

1. The licensee must remove grasses and other vegetation such as shrubs and trees if necessary so as not to impair the operation of the spray-irrigation system, to ensure uniform distribution of wastewater over the desired application area and to optimize nutrient uptake and removal.
2. The vegetative buffer zones along the perimeter of the site must be maintained to maximize vegetation and forest canopy density in order to minimize off-site drift of spray.

I. LAGOON MAINTENANCE

1. The banks of the lagoons must be inspected periodically during the operating season (at least two times per year) and properly maintained at all times. There must be no overflow through or over the banks. Any signs of leaks, destructive animal activity or soil erosion of the banks must be repaired immediately.
2. The banks of the lagoons must be maintained to keep them free of woody vegetation and other vegetation that may be detrimental to the integrity of the bank and/or lagoon liner. The lagoons must be kept free of all vegetation (*i.e.*, grasses, reeds, cattails, etc.) that hinders the operation of the lagoon.
3. For each lagoon, the licensee must maintain at least two (2) feet of freeboard or design levels, whichever is greater.
4. The treatment and storage lagoon must be dredged as necessary to maintain the proper operating depths in the lagoons that will provide best practicable treatment of the wastewater. All material removed from the lagoon(s) must be properly disposed of in accordance with all applicable State and Federal rules and regulations.

SPECIAL CONDITIONS

J. INSPECTIONS AND MAINTENANCE

The licensee must periodically inspect all system components to ensure the facility is being operated and maintained in accordance with the design of the system. Maintenance logs must be maintained for each major system component including pumps, pump stations, septic tanks, lagoons, spray apparatus, and pipes. At a minimum, the logs must include the unique identifier, the date of maintenance, type of maintenance performed, names or person performing the maintenance, and other relevant system observations.

K. GROUND WATER MONITORING WELLS AND WATER QUALITY MONITORING PLAN DETAILS

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

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

This facility must have a current written comprehensive O&M Plan. The plan must provide a systematic approach by which the licensee must at all times, properly operate and maintain all facilities and the systems of treatment and control (and related appurtenances) which are installed or used by the licensee to achieve compliance with the conditions of this license. Of particular importance is the management of the spray application sites such that the spray sites are given ample periods of rest to prevent over application.

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

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

M. PUBLIC ACCESS TO LAND APPLICATION SITES AND SIGNAGE

Access to the land application sites must be limited during the season of active site use. The licensee must install signs measuring at least 8 ½" x 11", in areas of concern around the perimeter of the lagoon and spray irrigation sites that inform the general public that the area is being used to dispose of sanitary wastewater. The signs must be constructed of materials that are weather resistant. The licensee must annually inspect and make any necessary repairs to the signage to comply with this condition.

SPECIAL CONDITIONS

N. MONITORING AND REPORTING

Electronic Reporting

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

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

1. Submitted by a facility authorized signatory; and
2. Submitted no later than **midnight on the 15th day of the month** following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Toxics reporting must be done using the DEP toxsheet reporting form. An electronic copy of the Toxsheet reporting document must be submitted to your Department compliance inspector as an attachment to an email. In addition, a hardcopy form of this sheet must be signed and submitted to your compliance inspector, or a copy attached to your NetDMR submittal will suffice.

Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15th day of the month following the completed reporting period.

Non-electronic Reporting

If you have received a waiver from the Department concerning the USEPA electronic reporting rule, or are permitted to submit hardcopy DMR's to the Department, then your monitoring results obtained during the previous month must 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 a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period.

Toxsheet reporting forms must be submitted electronically as an attachment to an email sent to your Department compliance inspector. In addition, a signed hardcopy of your toxsheet must also be submitted. A signed copy of the DMR and all other reports required herein must be submitted to the Department assigned compliance inspector (unless otherwise specified) following address:

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

SPECIAL CONDITIONS

O. REOPENING OF LICENSE FOR MODIFICATION

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this licensing action, new site specific information, or any other pertinent test results or information obtained during the term of this license, the Department may, at any time and with notice to the licensee, modify this license 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.

P. SEVERABILITY

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

Attachment A

Monthly Operations Log

Dexter Utility District (WDL #W000830)

(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

Dexter Utility District (WDL #W000830) (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 WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **March 1, 2018**

COMPLIANCE TRACKING NUMBER: **MEU500830**

WASTE DISCHARGE LICENSE: **W000830-6C-G-R**

NAME AND ADDRESS OF APPLICANT:

**DEXTER UTILITY DISTRICT
25 MAIN STREET
DEXTER, MAINE 04930**

COUNTY: **PENOBSCOT COUNTY**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

**DEXTER UTILITY DISTRICT
101 DUNN ROAD
DEXTER, ME 04930**

RECEIVING WATER CLASSIFICATION: **Groundwater/Class GW-A**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**MR. JEFFREY WIERS
25 MAIN STREET
(207)-717-0468
dexterwater@roadrunner.com**

1. APPLICATION SUMMARY

On March 30, 2017, the Department of Environmental Protection (Department) accepted as complete for processing an application from the Dexter Utility District (licensee) for the renewal of Waste Discharge License (WDL) #W000830-6C-F-R which was issued by the Department on November 2, 2012, for a five-year term. The 11/2/2012 license authorized the operation of a surface wastewater disposal (spray-irrigation) system for the treatment and seasonal disposal of up to 100 million gallons annually of treated sanitary wastewater to land in the Town of Dexter, Maine. The treatment system was designed for a sanitary wastewater influent flow of 273,000 gallons per day (0.273 MGD). The facility has been assigned Integrated Compliance Information System (ICIS) tracking number MEU500830.

1. APPLICATION SUMMARY (cont'd)

This licensing action is carrying forward all the terms and conditions of the previous licensing action and subsequent permit modifications except for the following:

1. Revises Special Condition G. *Spray-irrigation Operational Constraints, Logs and Reports* to the most recent licensing language (and eliminates the annual requirement to calibrate each of 1600 individual spray heads and put emphasis to proper system maintenance and application rates for each spray field).
2. Revises Special Condition K. *Ground Water Monitoring Wells And Water Quality Monitoring Plan Details* to the most currently licensing language.

2. LICENSE SUMMARY

- a. Terms and Conditions: This licensing action is carrying forward all the terms and conditions of the previous licensing action.
- b. History: This section provides a summary of significant licensing actions and milestones that have been completed for the permittee.

December 20, 2002 – The Department issued WDL #W000830-5L-D-R to the District for a five-year term. The 12/20/02 WDL superseded WDL #W000830-46-C-R issued on May 16, 1997, WDL#W000830-46-B-R issued on March 8, 1993, and WDL #W000830-45-A-R issued on September 3, 1985, WDL# 830 issued on March 26, 1980 (earliest Order on file with the Department).

March 25, 2003 – The Department issued a letter to the District thereby administratively modifying the 12/20/02 WDL to extend the submission deadline associated with Special Condition N of the 12/20/02 WDL from April 1, 2003 to May 1, 2003.

March 25, 2004 – The Department issued a letter to the District thereby administratively modifying the 12/20/02 WDL to correct the weekly average application rate from 2.0 inches per day to 1.6 inches per day (43,5400 gallons per acre per day) and to eliminate Special Condition O, *Soils Monitoring*, of the 12/20/02 WDL.

March 25, 2004 – The Department issued a letter to the District following a March 24, 2004 meeting between the District and the Department, to authorize the District to begin spray irrigation on spray fields #1 through #8, #15, and #16 due to critically high water levels in the lagoons. The Department required in this letter that the District submit by June 1, 2004, an engineered analysis of alternatives, including but not limited to, increasing the pumping capacity via additional pumps or modifications of the existing pump system, modifying spray field pipes or spray heads and/or modifying operational procedures.

June 18, 2004 – Leach Engineering Consultants, PA (St. Johnsbury, VT) provided the District with an evaluation of the spray pump system and concluded that by utilizing multiple suction lines, the spray system at the facility has the capability of spraying up to two spray irrigation fields simultaneously, increasing the spray capacity by 65%.

2. LICENSE SUMMARY (cont'd)

March 6, 2006 – The District requested in writing permission to operate the spray irrigation system earlier than the April 15th start date associated with the 12/20/02 WDL. The District reported that despite efforts to modify pumping practices and spray irrigation operations, exceptionally wet weather had caused high lagoon levels. The Department authorized early spray irrigation in response to the March 2006 request.

October 30, 2007 – The District submitted a timely and complete General Application to the Department for renewal of the 12/20/02 WDL. The application was accepted for processing on October 31, 2007 and was assigned WDL #W000830-5L-E-R.

December 6, 2007 – The Department issued WDL #W000830-5L-F-R for a five-year term.

September 13, 2012 – The District submitted a timely and complete application to the Department to renew the 12/6/07 WDL.

November 2, 2012 – The Department issued WDL # W000830-6C-F-R/(PCS) #MEU500830 to the District to operate a surface wastewater disposal (spray irrigation) system with an average influent flow rate of 0.273 million gallons per day and that uses spray irrigation to discharge up to 43,500 gallons per acre per week (spray fields #9-14) and up to 87,000 gallons per acre per week (spray fields #1-8, 15-16) on a weekly average basis of treated sanitary wastewater during the period of April 15 – November 15 of each year, depending on weather and site conditions, to the soil above ground water resources of the state, Class GW-A.

March 29, 2017 – The District submitted a timely and complete application to the Department to renew WDL #W000830-6C-F-M/ (ICIS) #MEU500830 for the disposal of up to operate a surface wastewater disposal (spray irrigation) system with an average influent flow rate of 0.273 million gallons per day and that uses spray irrigation to discharge up to 43,500 gallons per acre per week (spray fields #9-14) and up to 87,000 gallons per acre per week (spray fields #1-8, 15-16) on a weekly average basis of treated sanitary wastewater during the period of April 15 – November 15 of each year, depending on weather and site conditions, to the soil above ground water resources of the state, Class GW-A.

- c. Source Description: The District's wastewater treatment facility became operational in April 1988 for the collection and treatment of sanitary and light commercial wastewater generated by residential and commercial entities within District's boundaries (approximately 900 services). The District also expects to receive approximately 1,000 gallons of holding tank waste annually from the Town of Dexter's public works garage. There are no significant industrial users and no combined sewer overflow points associated with the collection system. The facility is not authorized to receive transported wastes.
- d. Wastewater Treatment: The District owns and maintains over 26 miles of polyvinyl chloride (PVC) collection pipe. Although the collection system was newly installed at the time of the plant construction in 1988, it still has experienced springtime infiltration from the start of operation. Five major pumping stations are on the system, including the pumping station to the spray-irrigation fields. There are also two residential pump stations on the system. A map created by the Department showing the location of the treatment facility is included as **Attachment A** of this Fact Sheet.

2. LICENSE SUMMARY (cont'd)

Wastewater conveyed to the treatment facility receives a secondary level of treatment via three (3) 1.0-million gallon (25' x 75' x 15') aerated lagoons, two (2) 30.9- million-gallon storage lagoons and a slow-rate spray-irrigation system made up of 16 separate irrigation fields, each approximately 11 acres in size, totaling 176 acres. Two flow meters are provided to measure and record wastewater flows; one at the inlet of the treatment plant and one on the pipeline to the spray-irrigation fields.

The licensee reports that Monday through Thursday during the spray season, ten fields per day are utilized and Friday through Sunday, eight fields are utilized.

- e. Storage: The Dexter site was formerly used as pastureland, and the vegetation consists of a mixture of woods and fields. The topography of the site is uniform with gradual slopes downward to the north-northwest of the site of 6-7 percent.

3. CONDITIONS OF LICENSE

Conditions of licenses, 38 M.R.S. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with applicable state law, and ensure that the receiving waters attain the State water quality standards as described in Maine's Water Classification System.

4. RECEIVING WATER QUALITY STANDARDS

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

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Effluent and Groundwater Monitoring

- a. Monitoring Parameters – Lagoon effluent monitoring parameters being carried forward in this licensing action are biochemical oxygen demand (BOD₅), total suspended solids (TSS), nitrate-nitrogen, and certain metals (arsenic, cadmium, chromium, copper, lead, nickel, and zinc). Monitoring for these parameters yields an indication of the effectiveness of the lagoon treatment process and the condition of the wastewater being applied. Lagoon effluent monitoring for all parameters except the metals must be conducted during the months of April, May, August, and October of each year. Lagoon effluent monitoring for the specified metals is only required to be performed during the fourth calendar quarter of the fourth year of the license. Well monitoring is required at the frequency specified in this licensing action, whether or not spray irrigation occurs. The District monitors the following ground water monitoring wells for compliance with this WDL.

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

Monitoring Wells	ICIS Code	Location
MW102	MW1D	Down-gradient, West side <u>not</u> within contact area
MW104	MW1E	Down-gradient, East side within contact area
MW105	MW1F	Down-gradient, East side within contact area
MW106	MW1G	Up-gradient

BOD - Monitoring for BOD yields an indication of the condition of the wastewater being drawn from the lagoon, the degree of loading of organic material and the effectiveness of the spray-irrigation treatment process. The limit of 100 mg/L established in the previous license as a BPT standard is being carried forward in this licensing action.

A review of the monthly DMR data for the period November 2012 – June 2017 indicates values have been reported as follows:

BOD Concentration (DMRs = 11) Lagoon Effluent

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	100	5.2 - 31	16

Total Suspended Solids (TSS) – The limit of 100 mg/L for the lagoon effluent along with a 1/Month monitoring requirement established in the previous license as a BPT standard is being carried forward in this licensing action. For the monitoring wells, the previous licensing action established a daily maximum concentration reporting requirement and twice per year monitoring frequency for TSS in ground water monitoring wells. TSS in the groundwater yields an indication of the integrity of the monitoring wells and of the treatment efficiency of the soils.

TSS Concentration (DMRs = 11) Lagoon Effluent

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	100	2.2 - 75	27

TSS Concentration (DMRs = 8) Monitoring Wells

Ground Water Monitoring Well #	Limit (mg/L)	Range (mg/L)	Average (mg/L)
MW1D	Report	27 - 150	67
MW1E	Report	11 - 28	19
MW1F	Report	3.8 - 106	31
MW1G	Report	7 - 161	46

This licensing action is carrying forward a daily maximum concentration reporting requirement for ground water monitoring wells for TSS consistent with the monitoring requirements established for other similar facilities.

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

Nitrate-nitrogen - For nitrate-nitrogen, the previous licensing action established a daily maximum concentration reporting requirement for the lagoon effluent and a daily maximum concentration limit of 10 mg/L for ground water monitoring wells. Nitrogen compounds are by-products of the biological breakdown of ammonia and are inherent in domestic like sanitary wastewater. Because nitrate-nitrogen is weakly absorbed by soil, it functions as a reliable indicator of contamination from waste-disposal sites. Elevated levels of nitrate-nitrogen in the drinking water supply are a human health concern. The limit of 10 mg/L is a National Primary Drinking Water standard.

A review of the monthly DMR data for the period November 2012 – June 2017 indicates values have been reported as follows:

Nitrate-Nitrogen Concentration (DMRs = 7) Lagoon Effluent

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	0.5 – 4.3	1.9

Nitrate-Nitrogen Concentration (DMRs = 8) Monitoring Wells

Ground Water Monitoring Well #	Limit (mg/L)	Range (mg/L)	Average (mg/L)
MW1D	10	0.5 – 1.0	0.81
MW1E	10	5.7 – 7.3	6.63
MW1F	10	0.5 – 1.0	0.81
MW1G	10	0.5 – 1.0	0.84

This licensing action is carrying forward the daily maximum concentration limit of 10 mg/L for ground water monitoring wells and the minimum monitoring frequency requirement of twice per year during the months of May and October.

Specific Conductance and Temperature - are considered to be “field” parameters meaning that they are measured directly in the field via instrumentation and do not require laboratory analysis. These parameters are considered as surveillance level monitoring parameters and are used as early warning indicators of potential groundwater contamination. Temperature data are important in calibrating the conductance measurements.

The previous licensing action also established a daily maximum reporting requirement for specific conductance for lagoon underdrain to serve as an early warning indicator of leakage in the lagoon liners.

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

A review of the monthly DMR data for the period November 2012 – June 2017 indicates values have been reported as follows:

Specific Conductance (DMRs = 8) Monitoring Wells

Ground Water Monitoring Well #	Limit (umhos/cm)	Range (umhos/cm)	Average (uhmos/cm)
MW1D	10	240 - 266	253
MW1E	10	435 - 484	463
MW1F	10	427 - 449	438
MW1G	10	234 - 322	279

Specific Conductance (DMRs = 11) Lagoon Underdrain

Value	Limit (uhmos/cm)	Range (uhmos/cm)	Average (uhmos/cm)
Daily Maximum	Report	524 - 571	540

This licensing action is carrying forward the daily maximum concentration reporting requirement for ground water monitoring wells and the underdrain system and the minimum monitoring frequency requirement of twice per year during the months of May and October for the ground water monitoring wells and three times per year, July, August and September for the underdrain system.

pH – The previous licensing action established a pH range limitation of 6.0 – 9.0 standard units for lagoon effluent and a reporting requirement for pH for ground water monitoring wells based on a Department best professional judgment of best practicable treatment.

A review of the monthly DMR data for the period November 2012 – June 2017 indicates values have been reported as follows:

pH (DMRs = 8) Monitoring Wells

Ground Water Monitoring Well #	Limit (S.U.)	Minimum (S.U.)	Maximum (S.U.)
MW1D	6.0 – 9.0	7.3	8
MW1E	6.0 – 9.0	7.0	7.82
MW1F	6.0 - 9.0	6.5	7.74
MW1G	6.0 - 9.0	6.8	8.1

Metals (arsenic, cadmium, chromium, copper, lead, nickel, and zinc) – The previous licensing action established a screening level (one test in the fourth calendar quarter of the fourth year of the license, unless otherwise specified by the Department) metals monitoring and reporting requirement for the lagoon and the ground water monitoring wells.

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

Metals (DMRs = 1 per parameter) Lagoon Effluent (001A)

	Arsenic	Cadmium	Chromium	Copper	Lead	Nickel	Zinc
001A	0.0013	0.0002	0.001	0.0006	0.001	0.003	0.002

Metals (DMRs = 1) Monitoring Wells

	Arsenic	Cadmium	Chromium	Copper	Lead	Nickel	Zinc
MW1D	0.015	0.004	0.006	0.015	0.005	0.007	0.026
MW1E	0.001	0.003	0.002	0.027	0.003	0.003	0.02
MW1F	0.001	0.003	0.003	---	0.003	0.003	0.02
MW1G	0.001	0.003	0.004	0.031	0.005	0.005	0.03

- b. Spray Irrigation Application Rates – The weekly average rates of 43,500 gallons (1.6 inches) per acre per week for fields 9, 10, 11, 12, 13, and 14 and 87,000 gallons (3.2 inches) per acre per week for fields 1 through 8, 15 and 16, are weekly application rates that are being carried forward from the previous licensing action. The weekly limits are established as a margin of safety against hydraulically overloading a spray field and are based on the treatment capabilities of the in-situ soils. The higher application rate for fields 1 through 8, 15 and 16 that was granted in the 1997 licensing action was based on 1996 field trials and the previous eight years of data for those fields. Regardless of the calculated rate, the system operator must monitor each waste application to verify adequate infiltration of the waste into the soil and an irrigation cycle must be stopped if runoff or ponding start to occur.

Summary of Spray Irrigation System	
Sprayfields	16 - 11 acres each
Sprayheads	110± per sprayfield
Pumps	3 – on standby at all times
Flow Measurement	Flow meter

Application rate (87,000 gal/acre/week)(DMRs = 24)

Fields	Range - Rate (gal./acre/week)	Mean - Rate (gal./acre/week)
SF#1	0.0 – 45,618	32,370
SF#2	6,553 – 44,621	33,099
SF#3	6,553 – 34,971	25,838
SF#4	0.0 – 41,192	32,497
SF#5	0.0 – 40,647	27,386
SF#6	0.0 – 44,098	31,528
SF#7	6,553 – 52,915	36,666

Application rate (87,000 gal/acre/week)(DMRs = 24)

Fields	Range - Rate (gal./acre/week)	Mean - Rate (gal./acre/week)
SF#8	6,553 – 42,985	32,475
SF#15	0.0 – 32,329	24,267
SF#16	6,553 – 45,760	34,908

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

Application rate (43,500 gal/acre/week)(DMRs = 24)

Fields	Range - Rate (gal./acre/week)	Mean - Rate (gal./acre/week)
SF#9	0.00 – 21,755	17,257
SF#10	0.0	0.0
SF#11	0.0	0.0
SF#12	0.0	0.0
SF#13	0.0	0.0
SF#14	0.0	0.0

Based on a review of spray irrigation and ground water monitoring data on file with the Department, the Department concludes that these data indicate there have been no significant impacts to ground water quality as a result of the spray irrigation process conducted by the District.

6. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As licensed, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the water body to meet standards for Class GW-A classification.

7. PUBLIC COMMENTS

Public notice of this application was made in *The Eastern Gazette* newspaper on or about March 24, 2017. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

8. DEPARTMENT CONTACTS

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

Aaron Dumont
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 592-7161
e-mail: Aaron.A.Dumont@maine.gov

9. RESPONSE TO COMMENTS

During the period of December 31, 2017, through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. The Department did not receive any substantive comment on the draft permit. It is noted that minor typographical and grammatical errors identified in comments were not summarized in this section, but were corrected, where necessary, in the final permit.

ATTACHMENT A

Dexter Utility District

MEU500860

Operator Randy Webber
Tel. #924-3075

Spray Irrigation Areas
Fields 9-14

Spray Irrigation Areas
Fields 1-8, 15, 16

Two Storage
Lagoons

Three Aerated
Lagoons

0 312.5 625 1,250 1,875 2,500 Feet

Plan Prepared by ME DEP
David Silver, Water Resources
(Dexter20Nov02)

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- 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.
