



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

March 19, 2012

Mr. Ron Bunce
c/o Equity Lifestyle Properties
2 North Riverside Plaza
Chicago, IL. 60606

RE: Permit Compliance System Tracking Number #MEU503294
Maine Waste Discharge License (WDL) Application #W003294-5J-F-R
Final License - Patten Pond Campground, Ellsworth, Maine

Dear Mr. Bunce:

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

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

If you have any questions regarding the matter, please feel free to call me at 287-7693 or send me an e-mail at gregg.wood@maine.gov.

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc:

cc: Tanya Hovell, DEP/EMRO
Sandy Mojica, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

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 04679-2094
(207) 764-0477 FAX: (207) 760-3143



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

**DEPARTMENT ORDER
IN THE MATTER OF**

MHC PATTEN POND LLC)	PROTECTION AND IMPROVEMENT
d/b/a PATTEN POND CAMPGROUND)	
ELLSWORTH, HANCOCK COUNTY, MAINE)	OF WATERS
SURFACE WASTEWATER DISPOSAL SYSTEM)	
MEU503294)	WASTE DISCHARGE LICENSE
W003294-5J-F-R)	RENEWAL
		APPROVAL

Pursuant to the provisions of 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of MHC PATTEN POND LLC d/b/a PATTEN POND CAMPGROUND (Patten Pond/licensee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The licensee has submitted a timely and complete application to the Department for the renewal of Waste Discharge License (WDL) #W003294-5J-E-R, which was issued by the Department to Stanley Patten Pond LLC on December 28, 2006, and expired on December 28, 2011. The application is for the continuing operation of a lagoon and spray irrigation wastewater disposal system on a 1.6-acre site for the treatment and seasonal disposal of sanitary wastewater generated at the Patten Pond Campground located on the southerly side of Route #1 in Ellsworth, Maine. At full capacity, approximately 16,000 gallons per day (gpd) of waste water is generated and the license authorized the disposal at a rate of 2.5 inches per acre per week in a dedicated spray irrigation area.

RENEWAL SUMMARY

This license is similar to the previous licensing action in that it carries forward all limitations, monitoring requirements and operational requirements except that this license;

- 1) Removes all references to ground water monitoring well #4 as the well was never installed.
- 2) Removes the requirement to monitoring and report flow and lagoon freeboard in the months of April and November as the facility is shutdown for the season during these months.
- 3) Expresses the weekly average spray application rate as a total quantity of waste water to be applied to the entire spray field (1.6 acres) rather than in inches/acre/week to give the licensee flexibility in managing the application of waste water in the spray site.

RENEWAL SUMMARY (cont'd)

- 4) Removes the requirement to submit a treatment system performance report every five years as part of the application for license renewal given the treatment and disposal system are relatively small in size.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated March 16, 2012, and subject to the Conditions listed below, the Department makes the following conclusions:

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

ACTION

THEREFORE, the Department APPROVES the above noted application of MHC PATTEN POND LLC d/b/a PATTEN POND CAMPGROUND, to operate a surface wastewater disposal system to discharge up to 108,600 gallons/week over the 1.6 acre spray irrigation area, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. Standard Conditions of Industrial Waste Discharge Licenses (Revised August 14, 1996), copy attached.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. This license becomes effective upon the date of signature below and expires at midnight five (5) years thereafter. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this license, the terms and conditions of this license and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

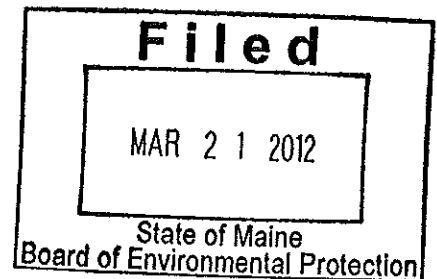
PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 21ST DAY OF MARCH 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: *Mark R. Bejwan*
For Patricia W. Aho, Commissioner

Date of initial receipt of application: December 1, 2011
Date of application acceptance: December 5, 2011



Date filed with Board of Environmental Protection: _____

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY
MEU503294 2012 3/16/12

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

- The licensee is authorized to operate a surface waste water treatment and disposal system. The **LAGOON MONITORING (OUTFALL #001)** ⁽¹⁾ shall be limited and monitored from May 1st -- October 31st of each year as specified below.

	Daily <u>Maximum</u> as specified	Minimum Measurement Frequency As specified	Sample Type As specified
Lagoon Influent [50050]	Report, Gallons [8G]	1/Day [01/01]	Meter [MT]
Lagoon Level (Freeboard) ⁽³⁾ [82584]	Report, Feet [27]	1/Week [01/07]	Measure [MS]
pH (Standard Units) ⁽²⁾ [00400]	6.0 -- 9.0	---	---
Biochemical Oxygen Demand (Lagoon Effluent) [00310]	100 mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
Total Suspended Solids (Lagoon Effluent) [00530]	100 mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
Nitrate-Nitrogen (Lagoon Effluent) [00620]	Report mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]

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

See page 7 and 8 of this license.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

2. Application of waste water to the land via a spray irrigation system shall be limited to the time frame of April 15th – November 15th of each year. The **SPRAY IRRIGATION AREAS (SI #1)** shall be limited and monitored as specified below.

	Monthly Total as specified	Weekly Maximum as specified	Daily Maximum as specified	Minimum Measurement Frequency as specified	Sample Type as specified
Application Rate (Weekly) ⁽⁵⁾ <i>[01287]</i>	---	108,600 gal/week ⁽⁶⁾ <i>[06]</i>	---	1/Day <i>[01/01]</i>	Calculate <i>[CA]</i>
Flow - Total Gallons ⁽⁴⁾ <i>[51500]</i>	Report (Gallons) <i>[0]</i>	---	---	1/Month <i>[01/30]</i>	Measure <i>[MS]</i>

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

Footnotes: See pages 7 & 8 of this license.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. The licensee shall monitor GROUND WATER MONITORING WELLS; GWM-1, GWM-2 & GWM-3 as follows:

<u>Monitoring Parameters</u>	Daily Maximum as specified	Minimum Measurement Frequency as specified	Sample Type as specified
Depth to Water Level Below Landsurface [72019]	Report (feet) ⁽⁷⁾ [27]	2 Year ⁽⁸⁾ [02YR]	Measure [MS]
Nitrate-Nitrogen [00620]	10 mg/L [19]	2 Year ⁽⁹⁾ [02YR]	Grab [GR]
Chloride (Total) [00940]	250 mg/L [19]	2 Year ⁽⁹⁾ [02YR]	Grab [GR]
Specific Conductance [00095]	Report (umhos/cm) [11]	2 Year ⁽⁹⁾ [02YR]	Grab [GR]
Temperature (°F) [00011]	Report (°F) [15]	2 Year ⁽⁹⁾ [02YR]	Grab [GR]
PH (Standard Units) [00400]	Report (S.U.) [12]	2 Year ⁽⁹⁾ [02YR]	Grab [GR]
Total Suspended Solids [00530]	Report (mg/L) [19]	2 Year ⁽⁹⁾ [02YR]	Grab [GR]
Inorganics (Total): Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel and Zinc [01002, 01027, 01034, 01042, 01051, 71900, 01057, 01092]	Report ug/L [28]	1/5 Years ⁽⁹⁾ [01/5Y]	Grab [GR]

Footnotes: - See page 7 and 8 of this license.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes – [Special Condition A(1), A(2) & A(3)]

Lagoon Effluent

1. Sampling - Sampling and analysis must be conducted in accordance with; a) methods approved in 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

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

2. Lagoon parameters/effluent shall be sampled in any month when spray irrigation occurs in accordance with approved methods for sampling, handling and preservation (see footnote #1). This licensing action does not require sampling and reporting of pH, however the licensee may be required to demonstrate compliance with this pH range at any time upon request from Department staff.
3. Lagoon Level (Freeboard) shall be reported as the number of feet (nearest 0.1 feet) between the lagoon water level and the lowest elevation of the lagoon berms. For reporting on the DMR form, the minimum freeboard level shall be recorded.

Spray-Irrigation Fields

4. The licensee shall measure the flow of waste water to the irrigation area. The methodology shall be checked for calibration at least once per calendar year.
5. Weekly is defined as Sunday through Saturday.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes – [Special Condition A(1), A(2) & A(3)] (cont'd)

Ground Water Monitoring

6. For Discharge Monitoring Report (DMR) reporting purposes, the licensee shall report the highest weekly application rate for the month in the applicable box on the form and the total quantity of waste water disposed of in each calendar month. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.
7. Measured to the nearest one-tenth ($1/10^{\text{th}}$) of a foot as referenced from the surface of the ground at the base of the monitoring well.
8. Depth to water level below land surface shall be conducted in the months of **May, and October** of each calendar year.
9. Groundwater sampling shall be conducted in the months of **May and October** of each calendar year. Specific conductance (calibrated to 25.0° C) is considered to be a “field” parameter and should be measured in the field via instrumentation but may also be measured in the laboratory. The licensee is required to test for this parameter whether waste water was disposed of via the spray-irrigation system or not. Specific conductance values indicating a statistically significant trend upwards or sudden spikes from previous levels may necessitate the need for additional ground water testing requirements.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain materials in concentrations or combinations which would impair the uses designated by the classification of the ground water.
2. The effluent must not lower the quality of any classified body of water (ground water is a classified body of water under Title 38, Section 465-C) below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

SPECIAL CONDITIONS

C. TREATMENT PLANT OPERATOR

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

D. AUTHORIZED DISCHARGES

The licensee is authorized to discharge treated sanitary waste water only in accordance with the terms and conditions of this WDL and only to the disposal field identified in the December 1, 2011, Waste Discharge License application submitted to the Department. Discharge of waste water to any other location or from sources other than those indicated on said application requires written authorization from the Department. The collection, treatment or discharge of waste water which has constituents unlike that or significantly higher in strength than that of domestic waste water is prohibited without written authorization from the Department. The licensee is prohibited from receiving and treating septage in the waste water treatment facility for the campground.

E. NOTIFICATION REQUIREMENT

In accordance with Standard Condition #6, the licensee shall notify the Department of:

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

SPECIAL CONDITIONS

F. GENERAL OPERATIONAL CONSTRAINTS

1. All waste waters shall receive treatment through a properly designed, operated and maintained waste water treatment system prior to disposal via spray irrigation.
2. The spray irrigation facilities shall be effectively maintained and operated at all times so that there is neither discharge to surface waters nor any contamination of ground water which will render it unsatisfactory for usage as a public drinking water supply.
3. The surface waste water disposal system shall not cause the lowering of the quality of the ground water, as measured in the ground water monitoring wells specified by this license, below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to Maine law 22 M.R.S.A. § 2601.

In the event the ground water monitoring results indicate adverse effects, the licensee may be required to take immediate remedial action(s), which may include but are not limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, or ceasing operation of the system until the ground water attains applicable standards.

4. The Department shall be notified as soon as the licensee becomes aware of any threat to public health, unlicensed discharge of waste water or any malfunction that threatens the proper operation of the system. Notification shall be made in accordance with the attached Standard Condition #4 of this license.
5. The licensee shall maintain a file on the location of all system components and relevant features. Each component shall be mapped and field-located sufficiently to allow adequate inspections and monitoring by both the licensee and the Department.
6. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells shall be identified and referenced by a unique system identifier in all logs and reports.
7. The licensee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities. The licensee shall inspect the spray-irrigation site within one hour after start-up of spray irrigation activities 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. The procedures used to determine the system is functioning as designed shall be described in the facility's O&M manual. Should significant malfunctions or leaks be detected, the licensee must shut down the malfunctioning/leaking sections of the spray system and make necessary repairs before resuming operation. The licensee shall cease irrigation if runoff is observed outside the designated boundaries of the spray field(s).

SPECIAL CONDITIONS

F. GENERAL OPERATIONAL CONSTRAINTS (cont'd)

8. **The licensee shall maintain a daily log** of all spray irrigation 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 shall be in accordance with the general format of the "*Monthly Operations Log*" provided as **Attachment A** of this license, or other format approved by the Department. Weekly application rates shall 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 shall 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.

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

1. Suitable vegetative cover shall be maintained. Waste water shall 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. The licensee shall make provisions for maintaining the spray irrigation area in optimum condition for the uptake of nutrients and moisture holding capacity.
2. At least 10 inches of separation from the ground surface to the ground water table shall be present prior to spray irrigation. There shall be no runoff outside the designated spray field boundaries as a result of operation of the spray system.
3. No waste water shall be spray irrigated as liquid following a rainfall accumulation exceeding 1.0 inch within the previous 24-hour period. **A rain gauge shall be located on site to monitor daily precipitation.** The licensee shall also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.
4. No waste water shall be applied as spray irrigation (liquid) where there is snow present on the surface of the ground or when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
5. No traffic or equipment shall be allowed in the spray-irrigation field area except where installation occurs or where normal operations and maintenance are performed (this shall include forest management operations).
6. The licensee shall manage irrigation to prevent surface water runoff and shall not irrigate land areas when water is ponded on the land surface for longer than 15 minutes at a time.

SPECIAL CONDITIONS

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

7. The licensee shall maintain the equivalent of a minimum 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.

H. VEGETATION MANAGEMENT

1. The licensee shall 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 waste water over the desired application area and to optimize nutrient uptake and removal.
2. The vegetative buffer zones along the perimeter of the site shall be maintained to maximize vegetation and forest canopy density in order to minimize off-site drift of spray.

I. INSPECTIONS AND MAINTENANCE

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

J. GROUND WATER MONITORING WELLS

1. All monitoring wells shall be equipped with a cap and lock to limit access and shall be maintained in a secured state at all times. The integrity of the monitoring wells shall also be verified annually in order to insure representative samples of ground water quality.
2. The Department reserves the right to require increasing the depth of and/or relocating any of the ground water monitoring wells if the well is frequently dry or is determined not to be representative of ground water conditions.

SPECIAL CONDITIONS

K. LAGOON MAINTENANCE

1. The banks of the lagoon shall be inspected weekly during the operating season and properly maintained. There shall be no overflow through or over the banks. Any signs of leaks, destructive animal activity, or soil erosion of the berms shall be repaired immediately.
2. Maintenance of the banks of the lagoon shall be conducted to keep them free of woody vegetation and other vegetation that may be detrimental to the integrity of the berm and or lagoon liner.
3. The waters within the lagoon shall be kept free of all vegetation (i.e. grasses, reeds, cattails, etc.) that hinders the operation of the lagoon.
4. The lagoon shall be dredged as necessary to maintain the proper operating depths that will provide best practicable treatment of the wastewater. All material removed from the lagoon(s) shall be properly disposed of in accordance with all applicable State and Federal rules and regulations.
5. The licensee shall maintain the lagoon freeboard at design levels or at least two (2) feet whichever is greater. The lagoon shall be operated in such a way as to balance the disposal of waste water via spray irrigation, including the necessary storage capacity for precipitation, to ensure that design freeboard levels are maintained.

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

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the licensee shall at all times, properly operate and maintain all facilities and the systems of treatment and control (and related appurtenances) which are installed or used by the 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 shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan shall be kept on-site 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 shall submit the updated O & M Plan to their Department inspector for review and comment.

SPECIAL CONDITIONS

M. SEPTIC TANKS

1. The (nine-2,000 gallon and two-1,500 gallon) septic treatment tanks and other holding or treatment tanks shall be regularly inspected (at least once per calendar year) and maintained to ensure that they are providing best practicable treatment.
2. Tank contents should be removed whenever the sludge and scum occupies one-third of the tank's liquid capacity or whenever levels approach maximum design capacity whichever is less. Following pumping, the tanks shall be checked for damage at key joints and the inlet and outlet baffles, and repaired promptly if damaged. The licensee shall keep a pumping log including the date of pumping, quantity of material removed, name and number of licensed contractor, pumping frequency and other relevant observations. The logs must be kept current and available to the Department for inspection upon request.

N. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and postmarked on or before the thirteenth (13th) day of the month or hand-delivered to 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. A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Land and Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, Maine 04011

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

SPECIAL CONDITIONS

O. REOPENING OF LICENSE

Upon evaluation of any required test results, results of inspections and/or reporting required by the Special Conditions of this licensing action, additional site-specific or any other pertinent information or test results obtained during the term of this license, the Department may, at anytime and with notice to the licensee, modify this license to require additional monitoring, inspections, and/or reporting based on the new information.

P. SEVERABILITY

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

Attachment A

Monthly Operations Log

MHC Patten Pond (WDL #W003294)

(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						
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22						
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24						
25						
26						
27						
28						
29						
30						
31						

Signature of Responsible Official: _____ Date _____

Attachment B
Spray Application Report by Week

MHC Patten Pond (WDL #W003294) (Month/Year) _____

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

Signature of Responsible Official: _____ Date _____

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **March 16, 2012**

PERMIT COMPLIANCE TRACKING SYSTEM NUMBER: **MEU503294**

LICENSE NUMBER: **W003294-5J-F-R**

NAME AND MAILING ADDRESS OF APPLICANT:

**MHC PATTEN POND, LLC
c/o Mr. Ron Bunce
Equity LifeStyle Properties
2 North Riverside Plaza, Suite 800
Chicago IL. 60606**

COUNTY: **Hancock County**

NAME AND ADDRESS OF FACILITY:

**PATTEN POND CAMPGROUND
1470 Bucksport Road
Ellsworth, Maine 04605**

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

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Ron Bunce
312-279-1400
e-mail: Ron_Bunce@equitylifestyles.com**

1. APPLICATION SUMMARY:

- a. Application: MHC Patten Pond, LCC d/b/a Patten Pond Campground (Patten Pond/licensee hereinafter), has submitted a timely and complete application to the Department for the renewal of Waste Discharge License (WDL) #W003294-5J-E-R, which was issued by the Department to Stanley Patten Pond LLC on December 28, 2006. The WDL expired on December 28, 2011. The application is for the continuing operation of a lagoon and spray irrigation wastewater disposal system on a 1.6-acre site for the treatment and seasonal disposal of sanitary wastewater at the Patten Pond Campground located on the southerly side of Route #1 in Ellsworth, Maine. At full capacity, approximately 16,000 gallons per day (gpd) of waste water is generated and the license authorized the disposal at a rate of 2.5 inches per acre per week in a dedicated spray irrigation area.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description: - The Patten Pond Campground is located on 26 acres of land adjacent to Lower Patten Pond in Ellsworth, Maine. The facility has 140 sites with full service water, electrical, and sewer hookups as well as 45 tent campsites. Sources generating waste water include sanitary facilities in the Main Lodge, the bathhouse, the pavilion, and the full service camp sites. The waste water generated is treated in on-site septic tanks and then pumped to the on-site lagoon and then discharged via the spray irrigation system. Waste water generated from the registration office, the apartments and the Main Lodge are treated in an existing subsurface waste water disposal system.
- c. Waste Water Treatment (Lagoon and Spray Irrigation) -The surface waste water disposal system was constructed in late 1973. The lagoon has a working capacity of approximately 1.7 million gallons. Waste waters generated from the campground receive primary treatment via eleven (11) on-site septic tanks (two-1,500 gallon and nine-2,000 gallon tank capacity). The tanks are pumped of solids annually and supernatant from the tanks is conveyed to the treatment lagoon via pump stations. There are two other septic tanks that discharge effluent to two on-site leachfields associated with the office building and shower building. The eleven septic tanks discharge their supernatant to the on-site wastewater lagoon which is located along the westerly edge of the developed portion of the campground. The lagoon has a full lagoon level of 94 feet above a vertical datum (assumed to be above sea level). The lagoon's berm embankment height extends to 101 feet, thus providing more than the required 2 feet of vertical freeboard during periods of full lagoon water levels.

The spray irrigation area is located northerly of the lagoon and includes two main lateral lines with eighteen spray distribution nozzles. Each nozzle is designed to equally distribute wastewater from the center of a 70-foot diameter circular area. The nozzles themselves are equally spaced along the main lateral lines. Each 70-foot diameter circular area contains 3,846 square feet of ground area or a total of 59,237 square feet of area (1.6 acres) to dispose of wastewater generated by the facility.

The spray area is located in an area characterized by mixed hardwoods and softwoods in a moderately well drained sandy loam (predominately Monadnock-Nicholville complex soils). Historic operations of the system indicates that the existing lagoon (which is lined with native in-situ soils that have compacted over time) has a degree of leakage that had been evaluated in a leakage analysis by a professional consulting engineer. The leakage analysis, entitled Patten Pond Camping Resort, LLC, Ellsworth, Maine, Lagoon Leakage Study, prepared by Acheron Engineering, Environmental & Geologic Consultants, dated January 2002; was submitted to the Department as required by the previous Waste Discharge License. The Leakage Study concluded that the lagoon leakage did not approach Department standard (500 gallons/acre/day) for leakage from a sanitary lagoon.

2. LICENSE SUMMARY

- a. History: The most recent Department licensing actions include the following:

October 25, 1972 - The Department approved (by Site Location Order #81-0434-09130), with conditions, the application of Camp Patten KOA to develop a campground with 200 camping sites with central facilities for supplies, lounges, laundry and sanitation facilities on 26 acres. Included was the finding that a central well and on-site central septic system was proposed. The Order further found that there was contradictory evidence as to the size and efficiency of the leach-field area with reference to nutrient pollution of Patten Pond through ground water discharges. The Order approved the development with the requirement that the licensee provide soil test data and percolation test results on the proposed leach-field area, detailed plumbing plan based on those tests, final layout plan of the campsites, road, utilities and facilities. The campground and lagoon facility were constructed in 1972 and operated until 1994.

September 24, 1980 - The Department approved the application of Patten Pond KOA, Inc. for a WDL (#3294) to operate a surface waste water disposal system at the campground. The WDL authorized the treatment and disposal of up to 16,000 gallons per day of sanitary wastewater between May 25th and September 30th of each year. The WDL found that the treatment system consisted of a septic tank followed by a large facultative stabilization lagoon with disposal of the waste water by percolation through the soils beneath the lagoon and that the system had been in existence since 1973 and was approved by the Department of Health and Welfare at that time. The WDL expired on September 24, 1985.

July 26, 1993 - Patten Pond Camping Resort submitted an application to the Department for renewal of the WDL for Patten Pond KOA, Inc. The application was accepted for processing by the Department on August 17, 1993. The application was subsequently withdrawn by the applicant on March 31, 2000. Between 1994 and early in the year 2000, the facility was vacant, except for 3 apartments and two trailers. Operations renewed in the latter portion of the year 2000.

November 8, 1999 - Patten Pond Camping LLC submitted an application to the Department for renewal and transfer of the Waste Discharge License (WDL) from the former owner, Patten Pond KOA, Inc.

2. LICENSE SUMMARY (cont'd)

June 26, 2001 - The Department approved (WDL #W003294-5J-C-R) the application of Patten Pond Camping LLC for the continued operation of the spray irrigation waste water disposal system for a period of five years. The license approved the application subject to the submittal of a Lagoon Leakage Study prepared by a registered Professional Engineer (on or before October 1, 2001), as well as remediation of the lagoon if it was found to be leaking excessively (the standard being 500 gallons per acre per day).

October 1, 2001 - The licensee requested and the Department approved an extension of time to submit the Lagoon Leakage Study, to January 2, 2002.

January 2, 2002 - The licensee submitted the Lagoon Leakage Study. The Study found that during the 2000 season, the campground was only partially opened (and consisted of 170 camping sites, of which 113 have full utility hookups), and that during the 2001 season, approximately 22,176 gallons of wastewater was pumped to the lagoon (or an 91-day summer season average waste water discharge to the lagoon of 243 gallons per day). No wastewater was spray irrigated during 2001. The Study also found that the area of the lagoon (to top of berm) is 1.5 acres. Water level in the lagoon did not vary by more than 2.0 inches during the summer season. The Study also found that a clay/silt layer [ranging between 13 inches and 5 feet] exists along the lagoon bottom and concluded that the leakage rate is in the range of less than 42 gallons per day. The Study indicated that there is no evidence the lagoon leakage rate approached the 500 gallon per acre per day threshold established in the June 2001 WDL, therefore remediation of the lagoon was not warranted.

February 6, 2002 - The Department assessed the Lagoon Leakage Study that found concerns with the studies methodology and assumptions and found that there was a potential net increase to the lagoon of 1,194,883 gallons per year (given precipitation [1,995,701 gallons] plus 22,176 gallons of wastewater, minus an assumed evaporation rate [of 811,314 gallons], and minus leakage [11,680 gallons]). The Department expressed concern that the licensee had not spray irrigated and that the lagoon never overtopped its berms. Assuming a net increase to the lagoon of 1,194,883 gallons per year divided by 365 days per year, the net loss to the substrate below the lagoon is 3,276 gallons per acre per day. Therefore, the unaccounted leakage through and below the lagoon exceeded the previously established threshold of 500 gallons per acre per day and a revised lagoon leakage analysis was to be provided that considered the February 6, 2002 assessment. In the event that a revised lagoon leakage study

2. LICENSE SUMMARY (cont'd)

concurrent with the assessment, then the lagoon must be reconstructed to account for the excessive leakage rate and to reduce unaccounted leakage to the previously established standard of 500 gallons per acre per day.

April 28, 2006 - The Department approved the transfer of the WDL to Stanley Patten Pond LLC with the issuance of WDL #W003294-5J-D-T.

December 28, 2006 – The Department issued WDL #W003294-5J-E-R, for a five-year term.

December 1, 2011 – The licensee submitted a timely and complete application to the Department to renew WDL #W003294-5J-E-R.

- b. Terms and Conditions - This license is similar to the previous licensing action in that it carries forward all limitations, monitoring requirements and operational requirements except that this license;
- 1) Removes all references to ground water monitoring well #4 as the well no longer exists.
 - 2) Removes the requirement to monitor and report flow and lagoon freeboard in the months of April and November as the facility is shutdown for the season during these months.
 - 3) Expresses the weekly average spray application rate as a total quantity of waste water to be applied to the entire spray field (1.6 acres) rather than in inches/acre/week to give the licensee flexibility in managing the application of waste water in the spray site.
 - 4) Removes the requirement to submit a treatment system performance report every five years as part of the application for license renewal given the treatment and disposal system are relatively small in size.

3. CONDITIONS OF LICENSES

Maine law, 38 M.R.S.A. Section 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System and ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of the ground waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A § 470 indicates the groundwater at the point of discharge is classified as Class GW-A receiving waters. Maine law, 38 M.R.S.A., §465-C, describes the standards for Class GW-A waters as the highest classification of groundwater and requires that the ground water shall be of such quality that it can be used for public water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair the usage of these waters, other than occurring from natural phenomena.

5. TREATMENT

Slow-rate land-irrigation treatment is an environmentally sound and appropriate technology for best practicable treatment and disposal of sanitary wastewater. The soils and vegetation within the irrigation area will provide adequate filtration and absorption to preserve the integrity of the soil, and both the surface and groundwater quality in the area.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

a. Lagoon Effluent:

This licensing action is carrying forward the monthly average limitations and or monitoring requirements for *Biochemical Oxygen Demand (BOD₅)*, *Total Suspended Solids (TSS)*, and *Nitrate-Nitrogen* for lagoon effluent as it exits the lagoon to be sprayed. Monitoring for these parameters yields an indication of the effectiveness of the lagoon treatment process and the condition of the wastewater being applied. A review of the monthly Discharge Monitoring Report (DMR) for the period 2008 – 2011 indicate values have been reported as follows:

Flow - influent to lagoon (DMRs=23)

Value	Limit (gallons)	Range (gallons)	Mean (gallons)
Daily maximum	Report	2,601 – 33,928	8,189

Biochemical oxygen demand – effluent (DMRs=5)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	100	18 – 28	24

Total suspended solids – effluent (DMRs=5)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	100	24 – 130	76

Nitrate-nitrogen – effluent (DMRs=2)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	Report	1.4 – 2.3	0.74

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

b. Spray Irrigation Application Rates (Weekly, Daily)

The weekly maximum rate 67,880 gallons per acre (2.5 inches/week) in the previous licensing actions is based on the characteristics of the in-situ soils and its ability to attenuate pollutant loadings. This licensing action is carrying forward the application rate but is only requiring the licensee to report the weekly average quantity of water sprayed on the entire spray field. This will provide the licensee more flexibility in managing the spray site.

	License Limit	Equivalent Inches	Based on total spray area of 1.6 acres**
Application Rate (weekly)	67,880 gallons/acre	2.5 inches	108,600 gallons per week

** Eighteen spray heads with a radius of 35 feet each

Note: 1 acre-inch is equivalent to 27,150 gallons

Regardless of the calculated rate, the system operator shall monitor each waste application to verify adequate infiltration of the waste water into the soil, and an irrigation cycle should be stopped if runoff or ponding start to occur.

A review of the monthly Discharge Monitoring Report (DMR) for the period 2008 – 2011 indicate values have been reported as follows:

(DMRs = 5)

	Limit (gals/acre)	Range (gal/acre)	Average (gal/acre)
Application Rate (weekly)	108,600	20,262 – 33,647	29.131
Flow (Total)	Report	29,330 – 39,030	32,775

c. Lagoon Levels (freeboard)

Freeboard is defined as the distance between the water level in the lagoon and the lowest point in the top of the lagoon berm. Monitoring the freeboard is important in managing the lagoon water levels to prevent overtopping of the lagoon berm and to evaluate facility operation for managing flows and annual precipitation.

Freeboard (DMRs=2)

Value	Limit (ft)	Range (ft)	Mean (ft)
Daily maximum	Report	4.8 – 6.1	5.5

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

d. Groundwater Monitoring Wells

The Department typically requires a minimum of three monitoring wells for monitoring potential impacts (or lack thereof) associated with surface wastewater disposal (spray-irrigation/snowmaking) systems. One well is typically installed upgradient from the lagoon to monitor ambient groundwater conditions, one well installed downgradient from the lagoon to monitor lagoon leakage, and one well installed downgradient from the spray field to monitor effects on the groundwater from the spray operation. Patten Pond Campground has three groundwater monitoring wells depicted on plans submitted to the Department in order to determine the treatment efficiency of the wastewater system (one well is adjacent to the lagoon [MW-1], two others are in the spray irrigation area [MW-2, MW-3].

The previous licensing action established limitations or monitoring requirements for the following parameters that are being carried forward in this licensing action.

1. *Total Suspended Solids (TSS)* –Monitoring for TSS in the monitoring wells is necessary to ensure the integrity of the monitoring well seating is intact preventing contamination of the well due to precipitation/storm water runoff infiltrating into the water column in the well.
2. *pH* – pH is considered to be an early warning monitoring parameter. pH swings or trends up or down may indicate possible contamination. The National Secondary Drinking Water Standard limit is 6.5 – 8.5 standard units.
3. *Nitrate-Nitrogen* – Nitrogen compounds are by-products of the biological breakdown of ammonia and is inherent in domestic-like sanitary waste waters. Tracking nitrogen concentration is important in determining the effectiveness of the treatment process and elevated N-concentration is a human health concerns in drinking water supplies. The limit of 10 mg/L is a National Primary Drinking Water standard.
4. *Specific Conductance, Temperature and pH* are generally considered “field” parameters meaning that they are measured directly in the field via instrumentation and does not require laboratory analysis. However, in certain instances, specific conductance samples may be preserved and forwarded to a laboratory for evaluation. These parameters are considered surveillance level monitoring parameters that are used as early-warning indicators of potential groundwater contamination.

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

In the case of Patten Pond Campground the Department has found that (1) the effluent has been consistently treated to a high degree; and (2) the on-site soils are relatively efficient at attenuating pollutant given the limited hydraulic load. A review of the monitoring well data for the period January 2008 – December 2011 indicates values have been reported as follows:

GW1 (DMRs=8)

Parameter	Limit	Range	Mean
Temperature (°F)	Report	47 - 49	48
Conductance ((umhos/cm)	Report	19 - 105	36
pH (su)	Report	4.60 – 5.57	n/a
TSS (mg/L)	Report	<1.0 – 4.0	0.64
Nitrate nitrogen (mg/L)	Report	<1.0 - <1.0	<1.0
Chloride (mg/L)	Report	1.0 – 5.0	2.4
Depth to GW (ft)	Report	13.8 - 17	15

Dating back to calendar year 2001, the Department and licensees have been debating whether the existing lagoon has an excessive leakage rate (>500 gal/day/acre). A review of the GW-1 data above indicates the ground water chemistry in this well is statistically no different than the monitoring data for GW-2 and GW-3. Therefore, the Department is making the determination that based on ground water monitoring data on file at the Department, there is no compelling evidence that the existing lagoon has an excessive leakage rate. Should future ground water monitoring results indicate test results are trending upwards, the Department may re-open the licensee to require the licensee to submit and implement a corrective action plan or conduct additional monitoring to address said concern(s).

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

GW2 (DMRs=8)

Parameter	Limit	Range	Mean
Temperature (°F)	Report	49 - 52	51
Conductance ((umhos/cm)	Report	48 - 125	67
pH (su)	Report	5.0 - 5.5	n/a
TSS (mg/L)	Report	1.8 - 7.0	3.3
Nitrate nitrogen (mg/L)	Report	<1.0 - 1.2	0.15
Chloride (mg/L)	Report	2.0 - 5.8	3.1
Depth to GW (ft)	Report	15 - 22	18

GW3 (DMRs=8)

Parameter	Limit	Range	Mean
Temperature (°F)	Report	46 - 59	49
Conductance ((umhos/cm)	Report	60 - 318	156
pH (su)	Report	5.6 - 6.4	n/a
TSS (mg/L)	Report	2.4 - 21.0	9.2
Nitrate nitrogen (mg/L)	Report	<1.0 - 7.6	1.8
Chloride (mg/L)	Report	4.0 - 33	13
Depth to GW (ft)	Report	18 - 25	21

7. SYSTEM CALIBRATION

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

Calibration involves collecting and measuring flow at several locations in the application area (typically a grid pattern of containers with uniform diameters). Rain gauges work best because they already have a graduated scale from which to read the application amount without having to perform additional calculations.

8. 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.

9. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper on November 12, 2011. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft licenses shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

10. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
E-mail: gregg.wood@maine.gov

Telephone (207) 287-7693

11. RESPONSE TO COMMENTS

During the period of December 27, 2011, through the issuance date of this license, the Department solicited comments on the proposed draft license to be issued for the discharge(s) from the licensee's facility. The Department did not receive comments from the licensee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the license. Therefore, the Department has not prepared a Response to Comments.

ATTACHMENT A

Guidance Memo, Record of Policy or Precedent

Non-detected results—Guidance and Procedures

Compliance and Technical Assistance

Date: January 18, 2011

From: Brian Kavanah, Director DWQM

To: MEPDES/WDL Program Guidance Binder, Inspector Notebook and Distribution List

RE: **Non-detected results—Guidance and Procedures.** (*file under DMR Instructions, DMR Reporting, Toxics Program, WDL Program Guidance, 49 Form data entry*)

Question/Issue: This Record of Policy explains how staff in the MEPDES program in Division of Water Quality Management will interpret how to use non-detected data in calculations and for compliance reporting purposes .

Discussion: All pollutant parameters which rely on approved laboratory testing methods to produce valid results will have the potential to not be detected within the constraints of the test method being used. Typically, this means the test has not achieved a reliable and accurate quantitation above a certain “detection limit”. For instance, the BOD test, under valid testing procedures, cannot guarantee a quantifiably accurate result below 2 mg/L for a 300 ml dilution. Hence a non-detected BOD result will be assigned a value of “ND” or “<2” on laboratory data reporting documents. There are several problem areas that can arise when using non-detected results in calculations and how to report them on laboratory bench sheets, Department supplied report forms, 49 forms, and discharge monitoring reports (DMR’s). In some cases, use of non-detected data in certain ways in calculations can result in unintended exceedences of permit limits where there may be some doubt as to the validity of the exceedence. An example is the problem at some wastewater discharging facilities where concentration limits are relaxed in comparison to the mass limits—a non-detected BOD result taken when flows are above licensed flow limits may result in an exceedence of the mass limit, depending on what number is used in the calculation. Does one use the detection limit (i.e. 2 mg/L for BOD), or ½ the detection limit, or zero? And what should be reported on 49 forms and DMR’s so an inadvertent exceedence is not generated and entered in the state and federal compliance database? The purpose of this guidance memo is to clarify the proper ways to use non-detected results in calculations and how to report non-detected results on official documents.

Definitions:

RL—Reporting Limit—Department specified minimum acceptable detection limit for particular parameter, typically three times the USEPA “method detection limit”(MDL) for a given pollutant laboratory test method.

Record of Policy or Precedent

Response to Invalid Test Results

Resolution or Ruling and Rationale: The following table presents the various scenarios likely to be encountered when using non-detected results and how to use non-detected results [Reminder: Any detected result will be used in calculations and reported as is standard practice in established policy and guidance.]:

Parameter type	Scenario	Example	Calculations	Reporting	Comments
<u>Metals, priority pollutants, BOD, TSS, Chlorine</u>	Concentration-- reporting single result	As = <5 ppb RL = 5 ppb	Use as if equal to "0" [see Ch 530 rules section (3)(F)(1), attached below]	<5 ppb	
	Concentration-- reporting single result—lower than RL	As = <2 ppb RL = 5 ppb	Use as if equal to "0"	<2 ppb	
	Concentration-- reporting single result—higher than RL	As = <10 ppb RL = 5 ppb	Do not use. Do not use in any averaging calculation, concentration or mass	NODI-H (Invalid test)	Re-test at discretion of Department
	Concentration-- averaging detected and non-detected results	Cu = <3 ppb (Cu RL = 3 ppb), 4ppb, 5ppb in one month	Use "<3" in calculation as = "0"; therefore average = (0 + 4 + 5)/3 = 3ppb	3 ppb	
	Concentration-- Reasonable Potential calculation	As = <5 ppb	Use value equal to 1/2 non-detected result = 2.5 ppb [see Ch 530 rules section (3)(F)(3), attached below]		

Guidance Memo, Record of Policy or Precedent

Non-detected results—Guidance and Procedures

Parameter type	Scenario	Example	Calculations	Reporting	Comments
Metals, priority pollutants, BOD, TSS, Chlorine cont.	Mass—reporting single result—maximum, weekly maximum, or monthly average	As = <5 ppb As RL = 5 ppb Mass limit = “X” Lbs.	Mass will be “0” in any calculation (<5 becomes 0, mass =0) where using the detection level in the calculation will result in a mass violation. Therefore, mass (in Lbs.) will be reported as “<X” if concentration is < RL, regardless of flow used in calculation. In situations where using the detection level value in the calculation will result in a Mass result (Y Lbs) that is below the limit, the facility will report < Y Lbs. (Revised 2/9/2011, This will require a modification to boilerplate language)	<X Lbs or <Y Lbs (See calculations)	This avoids reporting permit exceedances when using a non-detect result in a mass calculation would result in an unsubstantiated permit violation. In situations where a mass result can be calculated using the non detect result without creating a violation the facility is allowed to report a mass result that is more representative of the discharge and not the worst case scenario.
	Mass—reporting single result—maximum, weekly maximum, or monthly average—concentration less than RL, either for single result or averaged result	As = 3 ppb as single result or as average of results; As RL = 5 ppb Mass limit = “X”	If mass calculation results in “Y” Lbs. where “Y” < “X”, mass will be = “Y” Lbs. If mass calculation results in “Y” Lbs. where “Y” ≥ “X”, mass will be = “<X” Lbs.	=Y Lbs. or < X Lbs. [see calculations]	
	Mass—reporting average of multiple results	Cu RL = 3 ppb Cu = <3ppb, F=4MG; 5ppb, F=4MG; 7ppb, F=4MG Mass limit = “X” Lbs.	<3 = 0; therefore Average = [0X4X8.34 + 0.005X4X8.34+0.007X4X8.34]/3 = 0.13 Lbs.	0.13 Lbs	

Record of Policy or Precedent

Response to Invalid Test Results

Parameter Type	Scenario	Example	Calculations	Reporting	Comments
Metals, priority pollutants, BOD, TSS, Chlorine cont.	Mass—reporting average of multiple non-detected results (this scenario <u>only</u> applies when <u>no</u> valid, detected results are recorded during the month)	BOD RL = 2 mg/L F=4 MG; <2 mg/L F=2 MG; <2 mg/L F=2 MG; <2 mg/L Flow limit = 5 MGD Mass limit = "X" Lbs.	Because of lack of detectable data, our position is to calculate a mass based on the detection limit and <u>average</u> flow as a <i>reasonable</i> representation of the average mass. Avg. Flow = $(4+2+2)/3 = 2.67$ MGD Use detection limit and ratio to calculate mass = $2 \times 8.34 \times 2.67 = 44.5$ Lbs.	<44.5 Lbs. Or <X Lbs. if calculation = X Lbs or greater.	
	Mass—reporting monthly maximum of multiple non-detected results (this scenario <u>only</u> applies when <u>no</u> valid, detected results are recorded during the month)	BOD RL = 2 mg/L F=4 MG; <2 mg/L F=2 MG; <2 mg/L F=2 MG; <2 mg/L Flow limit = 5 MGD Mass limit = "X" Lbs.	Because of lack of detectable data, our position is to calculate a mass based on the detection limit and <u>maximum</u> sampling day flow as a <i>reasonable</i> representation of the monthly maximum mass. Max. Flow = $2 \times 8.34 \times 4 = 66.72$ Lbs.	<66.72 Lbs. Or <X Lbs. if calculation = X Lbs or greater.	
Bacteria	Reporting single non-detected result	Fecal Coliform = <2 colonies/100mL	Use "2" in all calculations	<2	discussed in DMR Instructions (excerpt from instructions attached below)
	Reporting single "too numerous to count (tntc)" result	Fecal coliform = >60 colonies at dilution of 1 mL	60X100 = 600 colonies/100 mL Use "600" in all calculations	>600	

Guidance Memo, Record of Policy or Precedent

Non-detected results—Guidance and Procedures

Geometric mean (Geomean) average calculation	Non-detect = X Limit = Y Result = Z	“<X” = “X” and “>Y” = “Y”, as well as detected results, are used in the geomean calculations. If “Z” is the geomean, that is what gets reported. [See DMR Instructions.]	(1) “Z” if average is \geq detection limit. (2) “<Z” if average is < detection limit. (3) “>Z” if geomean result is “tntc” and > permit limit.	Bacteria dilutions must be chosen so that a definitive exceeded result <u>and</u> a non-detected result can be quantified.
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Chap 530 Section (3)(F)(1)

When a test result for a specific chemical is reported as not found in concentrations at a detection level specified by the Department pursuant to section 2(C)(6), the compound must be considered to be not present for the purposes of determining exceedences of water quality criteria.

NOTE: Concentrations of compounds detected below levels specified by the Department must still be reported.

Chap 530 Section (3)(F)(3)

When all results are reported as below a detection level specified by the Department, the compound must be considered to have no reasonable potential to exceed water quality criteria. For the purposes of determining the coefficient of variation in calculating reasonable potential to exceed water quality criteria pursuant to section 3(E), when some results are reported as below a detectable amount, those values must be considered to be present at a level of one half of the detection level specified by the Department.

Record of Policy or Precedent

Response to Invalid Test Results

Staff involved in drafting this decision: Stuart Rose, Sterling Pierce, Bill Sheehan, Clarissa Trasko, Jim Crowley

Approvals:

Signature

Date

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD CONDITIONS OF INDUSTRIAL WASTE DISCHARGE LICENSES

1. General Conditions

- A. All discharges shall be consistent with the terms and conditions of this license; 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 license; it shall be a violation of the terms and conditions of this license 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 license.
- B. The licensee shall permit the Department of Environmental Protection Staff upon the presentation of proper credentials:
- 1) To enter upon licensee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this license;
 - 2) To have access to and copy any records required to be kept under the terms and conditions of this license;
 - 3) To inspect any monitoring equipment or monitoring method required in this license; or,
 - 4) To measure and/or sample at any intake, process or cooling effluent stream, wastewater treatment facility, and/or outfall.
- C. This license shall be subject to such monitoring requirements as may be reasonably required by the Department of Environmental Protection including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The licensee shall provide the Department of Environmental Protection with periodic reports on the proper Department of Environmental Protection reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.
- D. This license does not preclude obtaining other required Federal, State, or Municipal permits and does not authorize or approve the construction of any onshore physical structures or facilities or the undertaking of any work in any navigable waters.
- E. The issuance of this license does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights nor any infringement of Federal, State or local laws or regulations.
- F. Nothing in this license shall be construed to relieve the licensee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond his control, such as accident, equipment breakdown, labor dispute, or natural disaster.

2. Treatment Plant Operator

The Treatment Facility must be operated by a person holding a Grade ~~I, II, III, IV, V~~ certificate pursuant to 32 M.R.S.A., Section 4171 et seq. All proposed contracts for facility operation by any person must be approved by the department before the licensee may engage the services of the contract operator.

~~3. Disinfection~~

~~Disinfection shall be used to reduce the concentration of bacteria to or below the level specified in the "Effluent Limitations and Monitoring Requirement" section of this license. If chlorination is used as a means of disinfection, an approved contact chamber shall be provided. The chlorine residual in the effluent shall at no time cause any demonstrable harm to aquatic life in the receiving waters. A positive chlorine residual shall be maintained at all times as required by this license, however, at no time shall the total chlorine residual of the effluent exceed 1.0 mg/l.~~

4. Wastewater Treatment and Sampling Facilities

- a. The licensee shall collect all waste flows designated by the Department of Environmental Protection as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- b. The licensee shall at all times maintain in good working order and operate at maximum efficiency all wastewater 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 staff of the Department of Environmental Protection and approved prior to the construction or modification of any treatment facilities.
- e. The licensee shall install flow measuring facilities of a design approved by the Department of Environmental Protection.
- f. The licensee must provide an outfall of a design approved by the Department of Environmental Protection which is placed in the receiving waters in such a manner that maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

5. Monitoring and Reporting

a. 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 licensee 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.

- b. The sampling, preservation, handling, and analytical methods used must conform with Standard Methods for the Examination of Water and Wastewaters, American Public Health Association, 1015 18th Street, N.W., Washington, D.C. 20036, latest approved edition, or methods referenced in 40 CFR Part 136, Guidelines Establishing Test Procedures for Analysis of Pollutants. However, different but equivalent methods are allowable if they receive the prior written approval from the Department of Environmental Protection.

c. Reporting

- (1) The results of the above monitoring requirements shall be reported on reporting forms supplied by the department in the units specified at a frequency of once:

~~yearly~~ ~~semi-annually~~ ~~quarterly~~ monthly

- (2) All reports shall be submitted to the Department by not later than the tenth of the month following the end of the monitoring period.
- (3) Any reports or records of monitoring activities and results shall include for all samples: (a) the date, exact place, and time of sampling; (b) the dates and times analyses; (d) the analytical techniques/methods used, including sampling, handling, and preservation techniques; and (e) the results of all required analyses.

d. All reports shall be signed by:

- (1) In the case of corporations, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the reporting form originates.
 - (2) In the case of a partnership, by a general partner or duly authorized representative.
 - (3) In the case of a sole proprietorship, by the proprietor or duly authorized representative.
 - (4) In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or duly authorized employee.
- (e) All monitoring reports and future correspondence regarding monitoring facilities should be directed to:

Bureau of Water Quality Control
Department of Environmental Protection
State House Station #17
Augusta, Maine 04333

6. Non-Compliance Notification

- a. In the event the licensee bypasses collection or treatment facilities or is unable to comply with any of the conditions of this license due, among other reasons, to:
1. breakdown of waste treatment equipment;
 2. accidents caused by error or negligence;
 3. high strength, high volume or incompatible wastes, or
 4. other causes such as acts of nature,
- the licensee shall notify the Department of Environmental Protection verbally as soon as its agents have knowledge of the incident.
- b. Within five (5) days of becoming aware of such condition the licensee shall provide the Department of Environmental Protection in writing, the following information:
1. A description of the discharge and cause of noncompliance; and
 2. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

- c. If the licensee knows in advance of changes in licensed facilities or activities which may result in non-compliance or of the need to bypass, it shall submit prior notice at least ten days in advance of such occurrence.
- d. In the event a bypass is due to inflow or infiltration of uncontaminated water into a sewer system, reporting requirements may be adjusted by the Department to a monthly basis.

7. Change of Discharge

The licensee shall notify the department in writing as soon as it has knowledge of any significant changes or proposed changes in its discharge, including but not limited to:

- a) the temporary or permanent termination of the discharge;
- b) changes in the waste collection, treatment or disposal facilities;
- c) changes in the volume or character of wastewater flows;
- d) permanent changes in industrial production rates;
- e) the proposed addition, directly or indirectly, of toxic pollutants not authorized by the license or reflected in the application filed with the department;
- f) the addition to a municipal or quasi-municipal treatment system of industrial wastes which are categorically regulated by the U.S. EPA pursuant to the agency's pretreatment program.

8. Transfer of Ownership

In the event that any person possessing a license issued by the Department shall transfer the ownership of the property, facility or structure which is the source of a licensed discharge, without transfer of the license being approved by the Department, the license granted by the Department shall continue to authorize a discharge within the limits and subject to the terms and conditions stated in the license, provided that the parties to the transfer shall be jointly and severally liable for any violation thereof until such time as the Department approves transfer or issuance of a waste discharge license to the new owner. The Department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

9. Records Retention

All records and information resulting from the monitoring activities required by this license including all records of analyses performed and calibration and maintenance of instrumentation shall be retained for a minimum of three (3) years.

10. 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

(1) 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

(2) known to be hazardous or toxic by the licensee.

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

11. Removed Substances

Solids, sludges, trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of wastewaters shall be disposed of in a manner approved by the Department of Environmental Protection.

12. Bypass of Waste Treatment Facilities

The diversion or bypass of any discharge from facilities utilized by the licensee to maintain compliance with the terms and conditions of this license is prohibited, except (1) where unavoidable to prevent loss of life or severe property damage, or (2) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the terms and conditions of this license. The licensee shall notify the Department of Environmental Protection of each such diversion or bypass in accordance with the procedure specified in paragraph 6 above for reporting non-compliance. It is the duty of the licensee to take all feasible steps to prevent, minimize and mitigate bypasses. If infiltration or inflow of stormwater or groundwater contribute to bypasses, the licensee shall submit to the department for approval, a wet weather flow management plan. The plan shall describe measures implemented to maximize the volume of flow through the treatment facilities and the efficiency of the treatment process. Submission of this plan shall not remove any responsibilities of the licensee pursuant to paragraph 6.

13. Emergency Action--Electric Power Failure

In order to maintain compliance with the effluent limitations and prohibitions of this license, the licensee shall either:

- a. maintain an alternative power source sufficient to operate the wastewater control facilities; or
- b. Halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

14. Spill Prevention and Containment

The licensee shall within six (6) months of the effective date of this license submit to the Department of Environmental Protection a spill prevention plan. Said 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 practiced.

15. Connection to Municipal Treatment System

All wastewaters designated by the Department of Environmental Protection as treatable in a municipal treatment system will be consigned to a municipal treatment system when said system becomes available. This waste discharge license will automatically expire 90 days after a municipal facility becomes available unless this time is extended by the Department, in writing, for good cause shown.

16. Pretreatment

The licensee shall comply with all Federal Statutes, regulations, and conditions of permits applicable to its discharge of wastewaters, including, but not limited to, those requiring the installation of pretreatment facilities or establishment of pretreatment programs.

DEFINITIONS

FOR THE PURPOSE OF THIS LICENSE THE FOLLOWING SHALL APPLY

- A. Grab Sample: An individual sample collected in a period of less than 15 minutes.
- B. Composite Sample: A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or a lesser period if specified in the section on Monitoring and Sampling) and combined proportional to flow or a sample continuously collected proportionally to flow over the same time period.
- C. Daily Maximum For Concentration: The maximum value not to be exceeded at any time.
- D. Daily Maximum For Quantity: The maximum value not to be exceeded during any day.
- E. Weekly or Monthly Average: The sum of all daily samples measurement or test results made during a week or month divided by the number of tests or measurement made during the respective time period. Exception: bacteriological tests shall be calculated as a geometric mean.
- F. Bypass: The diversion of wastewater, either by act or by design, from any portion of a treatment facility or conveyance system.



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.
