



Department of Environmental Protection

Paul R. Lepage  
GOVERNOR

Patricia W. Aho  
COMMISSIONER

May 1, 2014

Mr. Rodney G. Buswell II  
R & K Mobile Home Park LLC  
18 Whitetail Rd.  
Brewer, ME 04412  
e-mail: [rodjr.peaveymfg@roadrunner.com](mailto:rodjr.peaveymfg@roadrunner.com)

RE: Integrated Compliance Information System (ICIS) #MEU503601  
Maine Waste Discharge License (WDL) Application #W003601-5J-E-T  
**Final License Transfer**

Dear Mr. Buswell:

Enclosed, please find a copy of your **final** Maine WDL **transfer**, 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](mailto:gregg.wood@maine.gov).

Sincerely,

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

Enc.

cc: Clarissa Trasko, DEP/EMRO  
Sandy Mojica, USEPA

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-3901 FAX: (207) 287-3435  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD  
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 04769-2094  
(207) 764-6477 FAX: (207) 764-1507



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

**DEPARTMENT ORDER**

**IN THE MATTER OF**

R & K MOBILE HOME PARK LLC		PROTECTION AND IMPROVEMENT
BREWER, PENOBSCOT COUNTY, MAINE	)	OF WATERS
SURFACE WASTEWATER DISPOSAL SYSTEM	)	
MEU503601	)	WASTE DISCHARGE LICENSE
W003601-5J-E-T	)	TRANSFER
	<b>APPROVAL</b>	

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 R & K MOBILE HOME PARK LLC (licensee hereinafter) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On March 12, 2014, the licensee submitted an application to the Department for the transfer of Integrated Compliance Information System (ICIS) #MEU503601/ Maine Waste Discharge License (WDL) #W003601-5J-D-R, (license hereinafter) issued on October 10, 2010, to ROGER E. TRACY for a five-year term. The license authorized the continued operation of a surface waste water disposal (spray-irrigation) system on a 5.4 acre site for the treatment and seasonal disposal of sanitary waste water generated at a rate of up to 8,500 gallons per day from the Town & Country Mobile Home Park in Brewer, Maine.

The licensee has been duly qualified by the Maine Secretary of State to be in good standing and authorized the corporation to conduct business under the laws of the State of Maine as of the date of this transfer. The licensee has submitted information demonstrating that it has legal title, right, and or interest in the facility and has provided a statement that it possess the financial capacity and technical ability to operate the facility in compliance with the terms and conditions of the October 10, 2010 WDL.

## CONCLUSIONS

BASED on the findings on page 1 of this license transfer dated March 21, 2014, 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 national 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 R & K MOBILE HOME PARK LLC, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. Maine Waste Discharge License (WDL) #MEU503601/WDL #W003601-5J-D-R, dated October 10, 2010, copy attached.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. This license transfer becomes effective upon the date of signature below and expires at midnight on October 10, 2015, concurrent with WDL #MEU503601/WDL #W003601-5J-D-R, dated October 10, 2010. 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 the 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

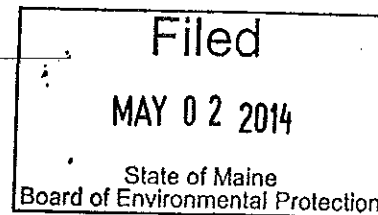
DONE AND DATED AT AUGUSTA, MAINE, THIS 2<sup>ND</sup> DAY OF May, 2014.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns  
for Patricia W. Aho, Commissioner

Date of initial receipt of application: March 12, 2014

Date of application acceptance: March 12, 2014



Date filed with Board of Environmental Protection \_\_\_\_\_

This Order prepared by GREGG WOOD, BUREAU OF LAND & WATER QUALITY

MEU503601 T 2014

5/1/14



STATE OF MAINE  
Department of Environmental Protection

John Elias Baldacci  
GOVERNOR

Beth Nagusky  
ACTING COMMISSIONER

October 12, 2010

Mr. Roger Tracy  
d/b/a Town & Country Mobile Home Park  
191 Day Road - Box 60  
Brewer, ME 04412

RE: Permit Compliance System Tracking Number #MEU503601  
Maine Waste Discharge License (WDL) Application #W003601-5J-D-R  
**Final License**

Dear Mr. Tracy:

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](mailto:gregg.wood@maine.gov).

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Wood", written over a horizontal line.

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

Enc.

cc: Clarissa Trasko, DEP/EMRO  
Sandy Mojica, USEPA



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

DEPARTMENT ORDER

IN THE MATTER OF

ROGER E. TRACY		PROTECTION AND IMPROVEMENT
d/b/a TOWN & COUNTRY MOBILE HOME PARK	)	OF WATERS
BREWER, PENOBSCOT COUNTY, MAINE	)	
SURFACE WASTEWATER DISPOSAL SYSTEM	)	
MEU503601	)	WASTE DISCHARGE LICENSE
W003601-5J-D-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 ROGER E. TRACY (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 with the Department for the renewal of Waste Discharge License (WDL) #W003601-5J-C-R, which was issued by the Department on April 27, 2005 and expired on April 27, 2010. The licensee owns and operates a spray irrigation waste water disposal system on a 5.4 acre site for the treatment and seasonal disposal of sanitary waste water generated at a rate of up to 8,500 gallons per day from the Town & Country Mobile Home Park in Brewer, Maine.

LICENSE SUMMARY

This licensing action is carrying forward all the terms and conditions of the 4/27/05 licensing action except that this license:

1. Replaces the daily maximum concentration limits for biochemical oxygen demand (BOD) and total suspended solids (TSS) with a "report" only requirement.
2. Eliminates the ground water quality monitoring and reporting requirements for chloride, temperature, pH, TSS and the eight metals listed as inorganics.
3. Requires the person in responsible charge of waste water treatment facility be a certified operator pursuant to Department rule, Chapter 531.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated September 8, 2010, and subject to the Conditions listed below, the Department makes the following conclusions:

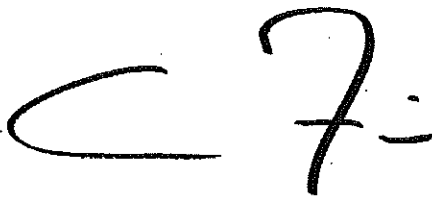
1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below 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 national 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 ROGER E. TRACY d/b/a Town & Country Mobile Home Park, to operate a surface wastewater disposal system, 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 expires five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

A handwritten signature in black ink, appearing to read 'C 7 -', is positioned to the left of the digital signature text.

This permit has been digitally signed by Andrew C. Fisk on behalf of Acting Commissioner Beth Nagusky. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2010.10.13 13:11:04 -04'00'

Date of initial receipt of application:      April 1, 2010  
Date of application acceptance:      April 1, 2010

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY  
MEU503601 2010      10/7/10



**SPECIAL CONDITIONS**

**A. LIMITATIONS AND MONITORING REQUIREMENTS**

- Beginning the effective date of the license, the licensee is authorized to operate a surface waste water treatment and disposal system. The **LAGOON MONITORING(OUTFALL #001)** <sup>(1)</sup> shall be limited and monitored as specified below.

	Daily <u>Maximum</u> As specified	Minimum Measurement <u>Frequency</u> As specified	Sample <u>Type</u> as specified
Lagoon Influent Quantity <sup>(2)</sup> (Flow—Total Gallons)	Report, Gallons	Continuous	Measure
[82220]	[80]	[99/99]	[MS]
Biochemical Oxygen Demand (Lagoon Effluent)	Report mg/L	2/Year <sup>(3)</sup>	Grab
[00310]	[19]	[02/YR]	[GR]
Total Suspended Solids (Lagoon Effluent)	Report mg/L	2/Year <sup>(3)</sup>	Grab
[00530]	[19]	[02/YR]	[GR]
Nitrate-Nitrogen (Lagoon Effluent)	Report mg/L	2/Year <sup>(3)</sup>	Grab
[00620]	[19]	[02/YR]	[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.

**Footnotes:** See page 7 of this license;

Note: Lagoon influent quantity shall be a report flow requirement and is not intended to reflect a specific limitation or maximum value.

**SPECIAL CONDITIONS**

**A. LIMITATIONS AND MONITORING REQUIREMENTS**

2. Application of waste water to the land via a spray irrigation system shall be limited to the time frame of April 15<sup>th</sup> – November 15<sup>th</sup> of each year. The **SPRAY IRRIGATION AREAS (SI #1, SI #2 AND SI #3)** shall each be limited and monitored as specified below.

	Monthly <u>Total</u> as specified	Weekly <u>Maximum</u> as specified	Daily <u>Maximum</u> as specified	Minimum Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Application Rate (Weekly) <sup>(5)</sup> [51125]	---	40,725 gal/acre/week <sup>(6)</sup> [88]	---	1/Week [01/07]	Calculate [CA]
Flow - Total Gallons <sup>(4)</sup> [82220]	Report (Gallons) [80]	---	---	1/Month [01/30]	Calculate [CA]

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 page 7 of this license.

**SPECIAL CONDITIONS**

**A. LIMITATIONS AND MONITORING REQUIREMENTS**

3. Beginning the effective date of the license, **GROUND WATER MONITORING WELLS; MW-1, MW-2, MW-3 AND DW-5.** MW-1 is located up-gradient of the spray site, MW-2 and MW-3 are located down-gradient of the spray site. DW-5 in this licensing action is located at 18 Whitetail Road.

<u>Monitoring Parameters</u>	<u>Daily Maximum as specified</u>	<u>Minimum Measurement Frequency as specified</u>	<u>Sample Type as specified</u>
Depth to Water Level Below Land Surface [72019]	Report (feet) <sup>(7)</sup> [27]	2/Year <sup>(8)</sup> [02/YR]	Measure [MS]
Nitrate-Nitrogen [00620]	10 mg/L [19]	2/Year <sup>(8)</sup> [02/YR]	Grab [GR]
Specific Conductance <sup>(9)</sup> [00095]	Report (umhos/cm) [11]	2/Year <sup>(8)</sup> [02/YR]	Grab [GR]

**FOOTNOTES:** - See page 7 of this license. Note: DW-5 does not need to be sampled for Depth to Water Level as is required for the groundwater monitoring wells; three times per year.

**SPECIAL CONDITIONS**

**A. LIMITATIONS AND MONITORING REQUIREMENTS (CONTINUED)**

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

Lagoon Effluent

1. Storage lagoon effluent shall be sampled (sampling location is the sampling port on the effluent pipe leading from the lagoon pumphouse to the spray irrigation area) and shall be representative of what is actually sprayed on the fields. Any change in sampling location must be approved by the Department in writing. 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 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 another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended 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 detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit.

2. Lagoon influent quantity shall be determined by flow readings from the on-site drinking water wells.
3. Lagoon effluent sampling shall be conducted in the months of **July and August** of each calendar year.
4. The licensee shall measure the flow of waste water to the irrigation area based upon a meter that has been installed in the effluent pipeline. The meter shall be checked for calibration at least once per calendar year.

**SPECIAL CONDITIONS**

**A. LIMITATIONS AND MONITORING REQUIREMENTS (CONTINUED)**

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

Spray-Irrigation Fields

5. 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 wetted area of the spray-irrigation field in acres or the size in acres of that portion of the field utilized. Note: 27,152 gallons is equivalent to one inch-acre. Weekly is defined as Sunday through Saturday.
6. For Discharge Monitoring Report (DMR) reporting purposes, the licensee shall 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.

Ground Water Monitoring

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. May, and October of each calendar year.
9. Specific conductance (calibrated to 25.0° C) is considered to be a "field" parameter and shall be measured in the field via instrumentation. The licensee is required to test for this parameter whether waste water was disposed of via the spray-irrigation system or not. Specific conductance (calibrated to 25.0° C) may be measured either in the field or the laboratory pursuant to sampling guidance above. 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 a visible oil sheen, foam or floating solids at any time which would impair the usage designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usage designated by the classification of the receiving waters.
3. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

## **SPECIAL CONDITIONS**

### **C. AUTHORIZED DISCHARGES**

The licensee is authorized to discharge treated sanitary wastewater only in accordance with the terms and conditions of this license and only to the existing spray irrigation area (SI #1, SI #2, and SI #3) and from those sources as indicated in the Waste Discharge License Application. Discharge of waste water from any other location or from sources other than those indicated on said application requires formal modification of this license. 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 formal modification of this license.

### **D. NOTIFICATION REQUIREMENT**

In accordance with Standard Condition #6 of this license, the licensee shall notify the Department of any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system. For the purposes of this section, notice regarding substantial change shall 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.

### **E. GENERAL OPERATIONAL CONSTRAINTS**

1. All waste waters shall receive pretreatment through the properly designed, operated and maintained tanks and lagoon system prior to land irrigation.
2. The spray irrigation facilities shall be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of ground waters which will render them unsatisfactory for usage as a public drinking water supply.
3. The surface waste water disposal system shall not cause lowering of the quality of the ground water, 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. § 2611.

In the event groundwater indicates 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.

## **SPECIAL CONDITIONS**

### **E. GENERAL OPERATIONAL CONSTRAINTS (cont'd)**

4. The Department shall 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, and action taken to repair/correct, and prevent recurrence. Notification shall be made in accordance with the attached Standard Condition #5 of this license.

### **F. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS**

1. Suitable vegetative cover shall be maintained. Waste water 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.
2. Prior to each spray event the water table must be at least 10 inches below the ground surface prior to spraying.
3. No waste water shall be applied to the site following a rainfall accumulation exceeding 1.0 inches 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 where there is snow present on the surface of the ground.
5. No waste water shall be applied when there is frost within the upper 10 inches of the soil profile.
6. No traffic or equipment shall be allowed in the spray-irrigation field except where installation occurs or where normal operations and maintenance is performed.

### **G. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS**

1. **Each day prior to irrigating,** the licensee shall visually inspect the spray irrigation site to determine if the soil moisture conditions are appropriate for spraying and all the operational constraints listed in Special Condition F above are met.
2. 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. **Within one hour after start-up of the spray-irrigation system,** the licensee shall walk the spray irrigation site (and maintenance staff will also periodically monitor the spray equipment throughout the day) to check the system for leakage in the piping system and determine if individual spray heads 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

## SPECIAL CONDITIONS

### G. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS

detected, the licensee must shut down the malfunctioning portion of the spray system and make necessary repairs before resuming operation of the spray system. The licensee shall cease irrigation if runoff is observed outside the designated boundaries of the spray field(s).

3. The licensee shall maintain a daily log of all spray irrigation operations that records: the date, weather and soil conditions, rainfall, lagoon freeboard (top of lagoon to the water surface), areas irrigated, volume sprayed (gallons), application rates (daily and hourly), and other relevant observations/comments from daily inspections. The log shall be in accordance with the format of the "*Monthly Operations Log*" provided as **Attachment "A"** of this license.

Weekly spray application rates shall be reported in accordance with the format of the "*Spray Application Report by Week*" provided as **Attachment "B"** of this license. The daily operational logs and weekly spray application reports for each month shall be submitted to the Department as an attachment to the monthly Discharge Monitoring Reports (DMR's). Copies will also be maintained on site for Department review and for license operation maintenance purposes.

4. The permittee shall install the equivalent of one ground water level inspection well within the spray area to verify that 10 inches of separation from the ground surface to the observed groundwater level is present prior to spraying. Depths to ground water shall be recorded in accordance with the format of "*Depth to Groundwater*" provided as **Attachment "C"** of this license.

### 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, 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.



## **SPECIAL CONDITIONS**

### **I. 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 storage 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.

### **J. SEPTIC TANKS**

1. The three 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 the tank's maximum design capacity. 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.

**SPECIAL CONDITIONS**

**K. DISPOSAL OF TRANSPORTED WASTE IN WASTE WATER TREATMENT FACILITY**

The permittee is prohibited from accepting transported wastes for disposal into any part or parts of the wastewater disposal system. "Transported wastes" means any liquid non-hazardous waste delivered to a wastewater treatment facility by a truck or other similar conveyance that has different chemical constituents or a greater strength than the influent described on the facility's application for a waste discharge license. Such wastes may include, but are not limited to septage, industrial wastes or other wastes to which chemicals in quantities potentially harmful to the treatment facility or receiving water have been added.

**L. 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 specific location of the maintenance, the date of maintenance, type of maintenance performed, names or person performing the maintenance, and other relevant system observations.

**M. OPERATIONS AND MAINTENANCE (O & M) PLAN AND SITE PLAN**

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 systems of treatment and control (and related appurtenances) which are installed or used by the licensee to achieve compliance with the conditions of this permit.

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 waste water 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 Department and EPA personnel upon request.

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

## **SPECIAL CONDITIONS**

### **N. 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.
2. The Department reserves the right to require increasing the depth of and/or relocating any groundwater monitoring well if the well is dry or is determined by the Department to be not representative of groundwater conditions.

### **O. PUBLIC ACCESS TO LAND APPLICATION SITES AND SIGNAGE**

Public access to the land application sites shall be controlled during the season of active site use. Such controls shall include the posting of signs showing the activities being conducted at each site. The licensee shall install signs measuring at least 8 ½" x 11" around the perimeter of the lagoon and spray irrigation site that inform the general public that the area is being used to dispose of sanitary waste waters. The signs must be constructed of materials that are weather resistant. The licensee must walk the perimeter of the lagoon and spray site prior to the beginning of each spray season and make any necessary repairs to the signage to comply with this condition.

### **P. TREATMENT PLANT OPERATOR**

The treatment facility must be operated by a person holding a minimum of a Maine Grade SITS-I certificate (or a Maine Professional Engineer [P.E.]) pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S.A., Sections 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 licensee may engage the services of the contract operator.

### **Q. REOPENING OF LICENSE FOR MODIFICATIONS**

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.

### **R. 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 this 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.

WDL # W003601/MEU503601; Fields #

(Month/Year) \_\_\_\_\_

Weekly Application Rate: 40,725 gallons/acre (1.5 inches)

[illegible]

**Spray Application Report by Week****Attachment B****Facility Name** \_\_\_\_\_;

WDL # W003601/MEU503601; (Month \_\_\_\_\_, Year \_\_\_\_\_) Weekly Application Rate 40,725 gallons/acre (1.5 inches)

Field Name/#	Effective Spray Area (Acres)	Weekly Limit (Gallons/Acre)	Actual Spray Application Rates (Gallons per Acre)					Number of Exceptions to Weekly Limit	Monthly Average
			Week 1	Week 2	Week 3	Week 4	Week 5		
Note: 1 acre-inch is equivalent to 27,150 gallons of liquid 27,150 gallons per acre is equivalent to 1.0 inch						Total Number of Exceptions			

A spray-field's weekly application rate is the total gallons sprayed (Sunday through Saturday) divided by the size of the spray-field in acres or the size in acres of that portion of the spray field utilized.

Signature of Responsible Official: \_\_\_\_\_, Date \_\_\_\_\_

**Depth to Groundwater (Tenths of Feet)****Attachment C**

(Month \_\_\_\_\_, Year \_\_\_\_\_)

Facility Name: Town &amp; Country Mobile Home Park.; WDL #W003601/MEU503601

Field Name/#	Monitoring Location	1. Depth to Groundwater (Measured From Ground Surface in Tenths of Feet)					Number of Exceptions	Monthly Average Depth
		Week 1	Week 2	Week 3	Week 4	Week 5		
Total Number of Exceptions								

Note: Special Condition G of the License requires that a depth of 10 inches from the ground surface to the groundwater table must be present prior to spraying. The licensee shall report the minimum depth to groundwater in the table above.

Signature of Responsible Official: \_\_\_\_\_, Date \_\_\_\_\_

**MAINE WASTE DISCHARGE LICENSE**

**FACT SHEET**

Date: September 8, 2010

PERMIT COMPLIANCE TRACKING SYSTEM NUMBER: MEU503601

LICENSE NUMBER: W003601-5J-D-R

NAME AND MAILING ADDRESS OF APPLICANT:

**ROGER E. TRACY**  
d/b/a Town & Country Mobile Home Park  
18 Whitetail Road  
Brewer, ME 04412

COUNTY: Penobscot County

NAME AND ADDRESS OF FACILITY:

**Town & Country Mobile Home Park**  
191 Day Road  
Brewer, Maine

RECEIVING WATER/ CLASSIFICATION: Groundwater /Class GW-A

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Mr. Roger Tracy  
207-989-3996  
e-mail: [rtracy@roadrunner.com](mailto:rtracy@roadrunner.com)

**1. APPLICATION SUMMARY:**

- a. Application: Roger E. Tracy (licensee hereinafter) d/b/a Town & Country Mobile Home Park has submitted a timely and complete application with the Department for the renewal of Waste Discharge License (WDL) #W003601-5J-C-R, which was issued by the Department on April 27, 2005 and expired on April 27, 2010. The licensee owns and operates a spray irrigation waste water disposal system on a 5.4 acre site for the treatment and seasonal disposal of sanitary waste water generated at a rate of up to 8,500 gallons per day from the Town & Country Mobile Home Park on the Day Road in Brewer, Maine. See Attachment A of this Fact Sheet for a location map.
- b. Source Description: The Town & Country facility is a 58-unit mobile home park located on 35 acres on the westerly side of the Day Road in Brewer. Sources generating waste water at the facility are limited to the residential mobile home units in the park. The mobile home park is served by two drilled wells for domestic drinking water supply.

## 1. APPLICATION SUMMARY

- c. Waste Water Treatment (Spray-Irrigation): The surface waste water disposal system commenced operation in 1982. Waste water generated receives a primary level of treatment in three septic tanks, each have a capacity of 2,000 gallons. Waste water generated by each unit is conveyed to the tanks via a 6-inch diameter gravity sewer pipe. The supernatant from the tanks is conveyed to a small pump station via a common gravity sewer and then conveyed to the lagoons via a three inch force main for secondary treatment.

The facultative lagoons were enlarged as part of the 1992 Consent Agreement. Sizing of the new lagoons had been based on standard design flow-rates of 145 gallons generated by each unit in the mobile home park for a total of approximately 8,500 gallons per day. Lagoon #1 measures approximately 300 by 95 feet, 7.5 feet deep (mean) and a working capacity of 1.7 million gallons, ("MG") (assuming a two foot freeboard). Lagoon #2 measures 235 by 135 feet, 7.5 feet deep (mean) and a working capacity of 1.8 MG. The two lagoons are operated in series and provide 242 days of detention time.

The spray irrigation system is located northwest of the lagoons on 7.7 acres, of which 5.4 are considered the wetted perimeter. The soils in the spray area are predominately Lamoine, silty loam with a 5-8% slope with a northerly aspect that slopes toward a small stream. The stream runs west to east. Lamoine has a seasonal high water elevation within 12 inches of the surface. A one-hundred foot setback from the stream and a 50 foot setback from the toe of the slope of the lagoons and the adjacent property line to the west have been established and are maintained in this licensing action.

The spray system is comprised of a total of 27 spray heads – 9 laterals distributed are spaced evenly along the force main. There are 3 spray heads on each lateral distribution line. Four laterals are located on the southerly side of the force main and six are located northerly of the force main. Each spray head distributes waste water over a circular area that measures 100 feet in diameter.

The secondary treated waste waters from Lagoon #2 are conveyed to the spray area via a two inch force main from the pump station in the northwest corner of Lagoon #2. The Department issued an administrative modification of the WDL on April 7, 2003 that authorized the increase of the spray irrigation rate from 1.0 to 1.5 inches per week.

Refer to the schematic in **Attachment B** to this Fact Sheet for locations of the mobile home park's collection system, lagoons, layout of the spray irrigation area, groundwater monitoring and drinking water wells, and other relevant features.



## 2. LICENSE SUMMARY

- a. Terms and conditions - This licensing action is carrying forward all the terms and conditions of the 4/27/05 licensing action except that this license:
1. Replaces the daily maximum concentration limits for biochemical oxygen demand (BOD) and total suspended solids (TSS) with a "report" only requirement.
  2. Eliminates the ground water quality monitoring and reporting requirements for chloride, temperature, pH, TSS and the eight metals listed as inorganics.
  3. Requires the person in responsible charge of waste water treatment facility be a certified operator pursuant to Department rule, Chapter 531.
- b. History: Recent Department licensing actions include the following:
- |                  |   |
|------------------|---|
| October 22, 1981 | - The Department issued the original WDL #3601 to Hutchins, Inc. for the disposal of secondary treated waste waters via a surface waste water disposal system for a proposed 58 unit mobile home park.  |
| March 3, 1982    | - The Department issued a modification of WDL #3601 that transferred the license from Hutchins, Inc. to Paula Parla.  |
| August 24, 1984  | - The Department issued another modification to WDL #3601 that transferred the license from Paula Parla to Edward & Marcy Holland.  |
| August 13, 1986  | - Country Acres Associates (CAA) filed an application with the Department to modify WDL #3601 to transfer the license to CAA. The application was never acted upon due to the treatment system operation in chronic non-compliance with the terms of the WDL. |
| March 17, 1992   | - CAA sold its right, title and interest in the facility to Green Acres Mobile Home Park Inc. (GAMHP)   |
| April 22, 1992   | - GAMHP executed a Administrative Consent Agreement with the Department to correct chronic non-compliance with the WDL and required structural improvements to the facility to ensure best practicable treatment of waste water generated at the facility.    |
| February 1, 2000 | - GAMHP submitted an application to the Department to renew WDL #3601.  |
| March 21, 2000   | - The Department issued WDL #W003601-5J-B-R that authorized the continued discharge from the facility.  |

## 2. LICENSE SUMMARY (cont'd)

- |                |   |   |
|----------------|---|---|
| Summer 2000    | - | GAMHP transferred its ownership in the facility to Town & Country Mobile Home Park.   |
| April 7, 2003  | - | The Department issued an Administrative Modification to Town & Country authorizing the increase of the spray irrigation rate to 1.5 inches per week |
| April 27, 2005 | - | The Department issued WDL #W003601-5J-C-R for a five-year term.   |
| April 1, 2010  |   | Roger E. Tracy submitted an application to the Department to renew the WDL for the Town & Country Mobile Home Park.                                 |

## 3. CONDITIONS OF THE LICENSE

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) and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System.

## 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 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: The previous licensing action established twice per year (July and August) monitoring and reporting requirements for *Influent Flow*, *Biochemical Oxygen Demand (BOD)*, *Total Suspended Solids (TSS)*, and *Nitrate-Nitrogen* for lagoon effluent as it exits the lagoon to be sprayed. Monitoring for BOD, TSS, pH and Nitrate serves as an indicator of the effectiveness of the lagoon treatment process and the condition of the waste water being applied. Lagoon influent flow is also required to be monitored and

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

reported on DMR forms to be submitted to the Department in order to calculate the lagoon mass balance and to properly manage lagoon volumes. Lagoon influent and effluent monitoring requirements in the previous licensing action are being carried forward in this licensing action.

A review of the effluent monitoring data for the period April 2005 – August 2008 indicates values for influent flow, BOD, TSS, nitrate nitrogen have been reported as follows:

DMRs=7

Value	Limit	Range	Mean
Flow	Report (gallons for month)	120,000 – 796,000	294,000
BOD	100 mg/L	<1 - 93	39
TSS	100 mg/L	3.9 - 322	82
Nitrate Nitrogen	Report mg/L	<0.5 - 49	9

### b. Spray Irrigation Application Rates (Weekly, Monthly)

The previous licensing action established a weekly maximum rate 40,725 gallons per acre (1.5 inches/week) based on the characteristics of the in-situ soils.

	License Limit	Equivalent Inches	Based on total spray area of 5.4 acres**
Application Rate (weekly)	40,725 gallons/acre	1.5 inches	219,915 gallons per week or 879,660 gallons/month

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 into the soil and an irrigation cycle should be stopped if runoff starts to occur.

A review of the DMR data for the period June 2005 – November 2008 indicates values for weekly average spray rates and total application rates have been reported as follows:

DMRs = 19

	Range	Mean
Weekly average applied	11,600 – 46,181 gal/acre	28,642 gallons/acre
Monthly total applied	79,961 – 1,664,589 gallons	565,236 gallons

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

### c. Groundwater Monitoring Wells and Drinking Water Well

At the time of the 4/27/05 licensing action, the spray system had four ground water monitoring wells established around its perimeter. The ground water monitoring wells had been designated MW-1 (northeast side of spray area), MW-2 (west side of spray), and MW-4 (southerly of spray area). In addition, the domestic drinking water well was designated for reporting purposes on DMR's as DW-5. DW-5 is located on site (mobile home site #21) was monitored according to the same schedule as the ground water monitoring wells (except for water level) and is considered representative of background groundwater conditions. The previous licensing action required sampling of the four monitoring wells twice annually (in May and October only) for biochemical oxygen demand (BOD), total suspended solids (TSS), pH, nitrate-nitrogen, chloride, temperature and depth to water level. In addition, the previous license required testing for a suite of metals in the last year of the term of the permit.

In 2008, the Department required the licensee to install three (3) new ground water quality monitoring wells as the Department determined the ground water quality monitoring wells cited in the 4/27/05 license were not sufficient to gather representative ground water quality information.

In addition to requiring new ground water quality monitoring wells, the Department has reconsidered its position on the extent of the parameters required for ground water quality monitoring for small surface waste water disposal systems and determined the two most significant parameters to track possible ground water contamination are specific conductance and nitrate nitrogen. Therefore, all parameters for ground water quality monitoring in the previous licensing action are being eliminated in this licensing action with the exception of depth to ground water, specific conductance and nitrate-nitrogen.

## 7. TREATMENT PLANT OPERATOR

This licensing action does not require wastewater treatment plant operator certification pursuant to the Department Water Quality Rules Chapter 531. However, the DEP would like to bring to the permittee's attention, that the DEP is proposing to undertake formal rule making to classify all waste water treatment plants and the qualifications for the operators.

## 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 with circulation in the area of the proposed discharge on or about April 1, 2010. 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

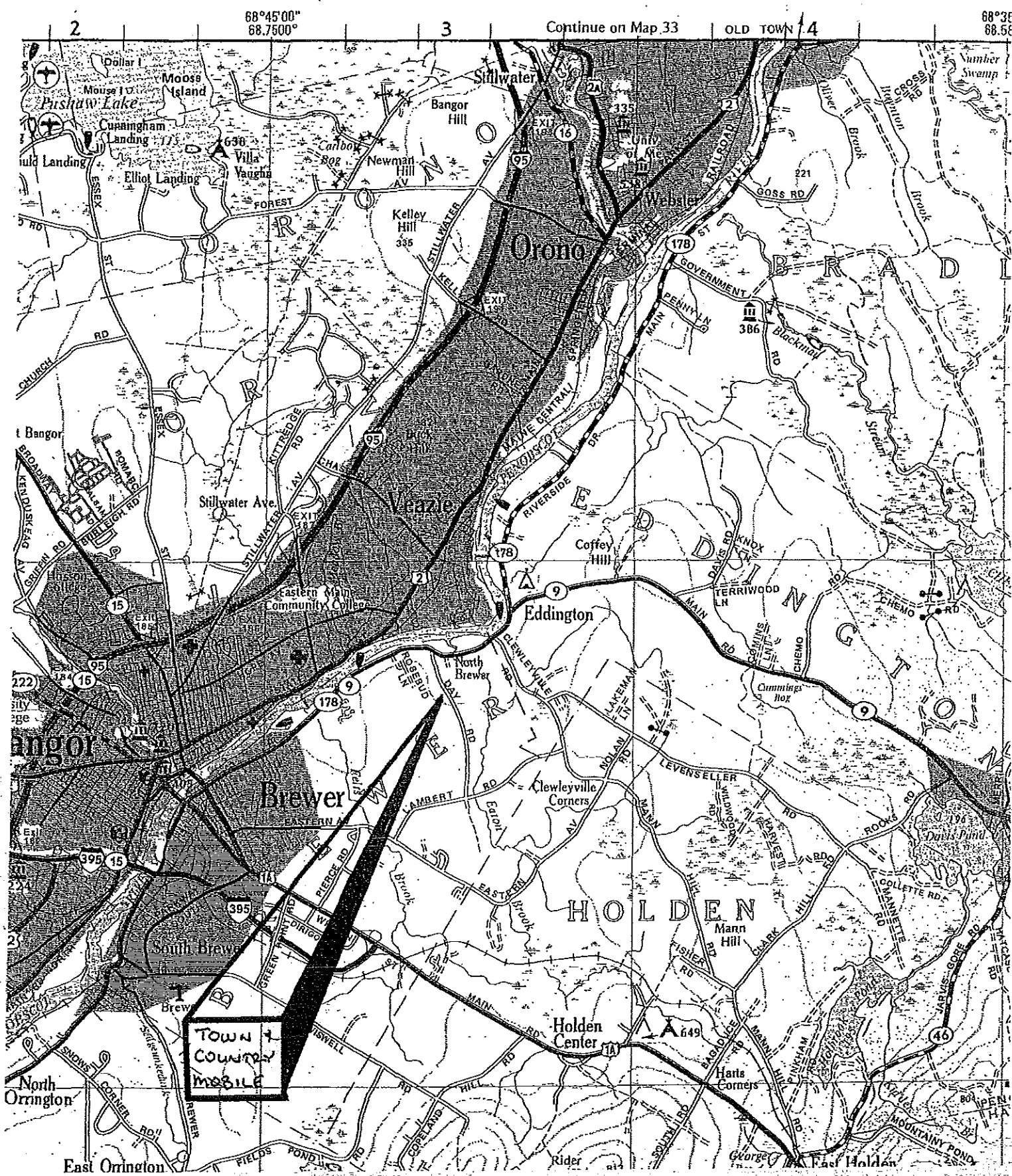
Additional information concerning this licensing action may be obtained from and written comments should be sent to:

Gregg Wood  
Department of Environmental Protection  
Bureau of Land and Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, Maine 04333-0017  
Telephone (207) 287-7693  
e-mail: [gregg.wood@maine.gov](mailto:gregg.wood@maine.gov)

## 11. RESPONSE TO COMMENTS

During the period of September 8, 2010, through the issuance date of the license, the Department solicited comments on the proposed draft license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, 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

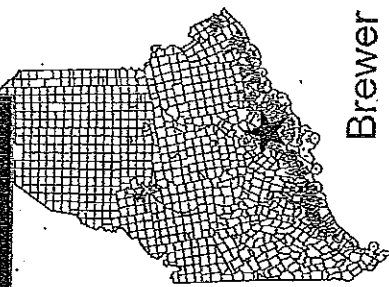




# Town & Country Mobile Home Park

Roger Tracy 989-3669

Maine Map Inset



Brewer

MW-1

Pump Station

Lagoons

#2

#1

MW-3

Spray Distribution  
Area 5.4 Acres

MW-2

Water Supply  
Well #DS-6

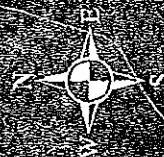
Mobile Home park

Inset  
Location  
Map

Pembiscot RIVER

Town & Country MHP

DWRR/DS 22DEC04@953





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

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### A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

## 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

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

- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
- (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
- (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
- (e) The permittee shall install flow measuring facilities of a design approved by the Department.
- (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

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

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

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

### **5. Bypasses.**

#### **(a) Definitions.**

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

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

#### **(c) Notice.**

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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).



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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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### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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.

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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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 Commissioner's Licensing Decision

Dated: May 2004

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. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

#### HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days 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 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 and the applicant a copy of the documents. All 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

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by 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 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 as part of an appeal only when 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 show 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, Section 24(B)(5).

#### OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information 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.* An applicant proceeding with a project pending the outcome of an appeal 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 initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final 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. The Board will notify parties to an appeal and interested persons of its decision.

#### II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

#### ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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**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.

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