



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
ACTING COMMISSIONER

January 17, 2019

Evelyn Niles
Cram Properties, LLC
P.O. Box 527
Old Town, Maine 04468
eveyotlc@yahoo.com

RE: *ICIS Tracking Number #MEU503618*
Maine Waste Discharge License (WDL) Application #W003618-5J-E-R
Finalized License Renewal

Dear Evelyn Niles:

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

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

If you have any questions regarding the matter, please feel free to call me at (207)-592-7161.

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

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

Sincerely,

Aaron Dumont
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc: Kayleigh Sauda, DEP/EMRO, Lori Mitchell, DEP/CMRO, Sandy Mojica, USEAP,
Marelyn Vega, USEPA, Richard Carvalho, USEPA

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

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

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

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



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

DEPARTMENT ORDER

IN THE MATTER OF

CRAM PROPERTIES, LLC.)	PROTECTION AND IMPROVEMENT
KENDUSKEAG, PENOBSCOT COUNTY, ME)	OF WATERS
SURFACE WASTEWATER DISPOSAL)	WASTE DISCHARGE LICENSE
MEU503618)	
W003618-5J-E-R)	RENEWAL

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

APPLICATION SUMMARY

On September 7, 2018, the Department accepted as complete for processing an application for the renewal of Waste Discharge License (WDL) #W003618-5J-D-R, which was issued by the Department on November 4, 2013 for a five-year term. The 11/4/2013 WDL authorized CRAM PROPERTIES LLC. to discharge 16,740 gallons per day of treated sanitary wastewater from a 62-unit mobile home park to the groundwater, Class GW-A, in Kenduskeag, Maine.

LICENSE SUMMARY

This license carries forward all terms and conditions of the previous licensing action except that it is:

1. Eliminates the monitoring requirement for turbidity in Lagoons #1 and #2 (Outfall 001 and Outfall 002) to be consistent with the monitoring parameters at other similar facilities; and
2. Eliminates the monitoring requirement for Total Kjeldahl Nitrogen (TKN) and Total Ammonia Nitrogen in Lagoons #1 and #2 (Outfall 001 and Outfall 002) to be consistent with the monitoring parameters at other similar facilities.

CONCLUSIONS

Based on the findings summarized in the attached Fact Sheet dated January 11, 2019, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

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

ACTION

THEREFORE, the Department APPROVES the above noted application of CRAM PROPERTIES, LLC, to discharge up to 16,740 gpd of treated sanitary wastewater to groundwater, Class GW-A, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

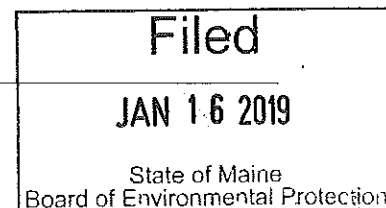
1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended June 9, 2018)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 15 DAY OF January 2019.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
for MELANIE LOYZIM, Acting Commissioner



Date filed with Board of Environmental Protection _____

Date of initial receipt of application: September 7, 2018

Date of application acceptance: September 7, 2018

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. The licensee is authorized to operate a surface wastewater treatment and disposal system. **LAGOON #1 (OUTFALL #001) AND LAGOON #2 (OUTFALL #002)** must be monitored as specified below⁽¹⁾⁽²⁾⁽³⁾.

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Specific Conductance ⁽⁴⁾ [00095]	---	Report, umhos/cm [11]	1/Quarter [01/90]	Grab [GR]
Flow – Total Gallons ⁽⁵⁾ [51500] (<i>Lagoon #1 only</i>)	Report, Gallons [57]	---	1/Month [01/30]	Measure [MS]
Freeboard ⁽⁶⁾ [82564]	---	Report, feet [27]	1/Month [01/30]	Measure [MS]
Dissolved Oxygen [00300]	---	Report, ppm [20]	1/Quarter [01/90]	Grab [GR]
Nitrate-Nitrogen [00620]	---	Report, mg/L [19]	1/Quarter [01/90]	Grab [GR]
pH (standard units) [00400]	---	Report, S.U. [12]	1/Quarter [01/90]	Grab [GR]

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

Footnotes: See Pages 7 – 8 of this license for applicable footnotes.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

2. The licensee is authorized to operate a surface wastewater treatment and disposal system. The **SURFACE WATER MONITORING LOCATIONS (SW-1A, SW-3A)** must be monitored as specified below⁽¹⁾⁽⁴⁾.

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Specific Conductance ⁽⁴⁾ [00095]	---	Report, umhos/cm [11]	1/Quarter [01/90]	Grab [GR]
Dissolved Oxygen [00300]	---	Report, ppm [20]	1/Quarter [01/90]	Grab [GR]
Turbidity [00070]	---	Report, N.T.U. [43]	1/Quarter [01/90]	Grab [GR]
Nitrate-Nitrogen [00620]	---	Report, mg/L [19]	1/Quarter [01/90]	Grab [GR]
pH (standard units) [00400]	---	Report, S.U. [12]	1/Quarter [01/90]	Grab [GR]

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

Footnotes: See Pages 7 – 8 of this license for applicable footnotes.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. Beginning the effective date of the license **GROUNDWATER MONITORING WELLS (MW-1, MW-2, MW-3, MW-4, MW-5)** must be monitored as specified below⁽¹⁾⁽⁸⁾.

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Specific Conductance ⁽⁴⁾ [00095]	---	Report, umhos/cm [11]	1/Quarter [01/90]	Grab [GR]
Depth to Water Level Below Land Surface ⁽⁷⁾ [72019]	---	Report, feet [27]	1/Quarter [01/90]	Measure [MS]
Dissolved Oxygen [00300]	---	Report, ppm [20]	1/Quarter [01/90]	Grab [GR]
Turbidity [00070]	---	Report, N.T.U. [43]	1/Quarter [01/90]	Grab [GR]
Nitrate-Nitrogen [00620]	---	10 mg/L [19]	1/Quarter [01/90]	Grab [GR]
pH (standard units) [00400]	---	Report, S.U. [12]	1/Quarter [01/90]	Grab [GR]

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

Footnotes: See Pages 7 – 8 of this license for applicable footnotes.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

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

1. Sampling – The licensee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000). If the licensee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
2. Grab samples for Lagoon #1 must be collected from the western shore across from the existing staff gauge.
3. Grab samples for Lagoon #2 must be collected near the middle of the lagoon along the westerly side.
4. Specific conductance (calibrated to 25.0° C) is considered a "field" parameter meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. However, in certain instances, specific conductance samples may be preserved and forwarded to a laboratory for evaluation. The licensee is required to test for this parameter whether wastewater was disposed of via the spray-irrigation system or not. Specific conductance values indicating a statistically significant trend upwards or sudden spikes from previous levels may necessitate the need for additional groundwater testing requirements.
5. The licensee must report lagoon influent flow to treatment Lagoon #1 as the total measured potable water use for the mobile home park for a month. Any change in sampling location must be approved by the Department in writing. The flow measuring device must be checked for calibration at least once per calendar year.
6. For the purposes of this licensing action, freeboard is defined as the mathematical difference between the elevation of the surface of the water in each lagoon and the lowest elevation of the berm for each lagoon. The licensee must measure the freeboard of each lagoon to the nearest ½ foot at a frequency of at least 1/Month.

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SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

7. Depth to water level in groundwater monitoring wells must be measured to the nearest one tenth (1/10th) of a foot as referenced from the surface of the ground at the base of the monitoring well.
8. The licensee must conduct groundwater sampling in the months of **March, May, October and December** of each year.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The licensee must not discharge effluent that contains materials in concentrations or combinations which would impair the usages designated by the classification of the groundwater.
2. The licensee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification.

C. AUTHORIZED DISCHARGES

The licensee is authorized to discharge only in accordance with: 1) the licensee's General Application for Waste Discharge License, accepted for processing on September 7, 2018; 2) the terms and conditions of this license; and 3) only to the existing lagoons. Discharges of wastewater from any other point source(s) are not authorized under this license, and must be reported in accordance with Standard Condition D(1)(F), *Twenty-four hour reporting*, of this license.

D. NOTIFICATION REQUIREMENTS

In accordance with Standard Condition 6, the licensee must notify the Department of the following:

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

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SPECIAL CONDITIONS

E. GENERAL OPERATIONAL CONSTRAINTS

1. All wastewater must receive pretreatment through septic tanks and a properly designed, operated, and maintained lagoon system prior to infiltration.
2. The lagoon must be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of groundwater which will render them unsatisfactory for usage as a public drinking water supply.
3. The licensee must notify the Department 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 must be made in accordance with the attached Standard Condition #5 of this license.
4. The licensee must maintain a file on the location of all system components and relevant features. Each component must be mapped and field-located sufficiently to allow adequate inspection and monitoring by both the licensee and the Department. Septic tanks must be accessible, including risers where necessary, for inspection and pumping.
5. All system components including collection pipes, tanks, manholes, pumps, pumping stations, and monitoring wells must be identified and referenced by a unique identifier (alphabetic, numeric or alpha-numeric) in all logs and reports.
6. The licensee must ensure that roof drains and foundation drains are not connected to the system.
7. The licensee must ensure that occurrences of excessive inflow and infiltration are corrected immediately.
8. The licensee must ensure that all sources of surface water are diverted away from the lagoons.
9. The licensee must ensure that stockpiling of snow or soil within the watershed of the lagoons is prohibited.

F. LAGOON MAINTENANCE

1. The licensee must inspect and properly maintain the banks of the lagoon monthly. There must be no overflow through or over the banks. Any signs of leaks, destructive animal activity or soil erosion of the berms must be repaired immediately.
2. The licensee must maintain the banks of the lagoon to keep them free of woody vegetation and other vegetation that may be detrimental to the integrity of the berm and or lagoon liner.

SPECIAL CONDITIONS

F. LAGOON MAINTENANCE (cont'd)

3. The licensee must remove or prevent the growth of vegetation (for example, grasses, reeds, cattails) that hinder the operation of the lagoon.
4. The licensee must dredge the lagoon(s) as necessary to maintain the proper operating depths that will provide best practicable treatment of the wastewater. All material removed from the lagoon(s) must be properly disposed of in accordance with all applicable State regulations.
5. The licensee must maintain the lagoon freeboard at design levels or at least two (2) feet whichever is greater.

G. SEPTIC TANKS

1. All septic tanks must be watertight and tanks must be constructed of materials approved by the Department and in accordance with the *Subsurface Wastewater Disposal Rules*, 10-144 CMR 241(6)(C) (effective date August 3, 2015). Metal septic tanks are prohibited.
2. Inlet and outlet connections of each septic tank or compartment must be designed to obtain effective retention of scum and sludge. All connections and baffles must be fastened with and constructed of, or coated with, materials that are resistant to corrosion.
3. Septic tanks and other treatment tanks must be regularly inspected (at least once per calendar year) and maintained to ensure that they are providing best practicable treatment. Reports of the results of the inspection must include the amount of sludge build-up, baffle conditions, etc., and must be reported to the Department's compliance inspector prior to the end of the month following the inspection.
4. Tank contents must be removed whenever the sludge and scum occupies one-third of the tank's liquid capacity or whenever levels approach maximum design capacity.

H. DISPOSAL OF TRANSPORTED WASTE IN WASTEWATER TREATMENT FACILITY

The licensee is prohibited from introducing transported wastes into the wastewater treatment facility. "Transported wastes" means any liquid non-hazardous waste delivered to a wastewater treatment facility by a truck or other similar conveyance. Such wastes may include, but are not limited to septage, holding tanks wastes, industrial wastes or other wastes to which chemicals in quantities potentially harmful to the treatment facility or receiving water have been added.

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SPECIAL CONDITIONS

I. INSPECTIONS AND MAINTENANCE

1. All inspections must include an evaluation of any repair, upgrades, pumping, operational and/or maintenance needs.
2. The inspection report or log must include the date of the inspection, the names of the person performing the inspection, and other relevant system operations.
3. Maintenance logs must be maintained for each system component including pumps, pump stations, septic tanks, lagoons, and pipes. At a minimum, the log must include the alphanumeric ID, the date of maintenance, type of maintenance performed, names or person performing the maintenance, and other relevant system observations.

J. PUMPING (SOLIDS REMOVAL FROM SEPTIC TANKS, PUMPING STATIONS, AND OTHER TREATMENT TANKS)

1. The licensee must keep a pumping log including the date of pumping, quantity of material removed (solids % capacity), name and number of licensed contractor, pumping frequency and other relevant observations.
2. Following pumping, the tanks must be checked for damage at key joints and the inlet and outlet baffles, and repaired promptly if damaged.

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

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

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

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

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SPECIAL CONDITIONS

L. PUBLIC ACCESS TO LAND APPLICATION SITES AND SIGNAGE

Public access to the lagoons must be controlled and limited. The licensee must install signs measuring at least 8 ½" x 11", in areas of concern around the perimeter of the lagoons and spray irrigation sites that inform the general public that the area is being used to dispose of sanitary wastewater. Each sign must be placed such that at least two other signs (one left, one right) may be seen from any one posted sign. The licensee must annually inspect and make any necessary repairs to the signage to comply with this condition.

M. MONITORING AND REPORTING

Electronic Reporting

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

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

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

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

Non-electronic Reporting

If you have received a waiver from the Department concerning the USEPA electronic reporting rule, or are permitted to submit hardcopy DMR's to the Department, then your monitoring results obtained during the previous month must be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period.

SPECIAL CONDITIONS

M. MONITORING AND REPORTING (cont'd)

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

Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, ME. 04401

N. REOPENING OF THE 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 any time and with notice to the licensee, modify this license to require additional monitoring, inspections and/or reporting based on the new information.

O. SEVERABILITY

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

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **JANUARY 11, 2019**

INTERGRATED COMPLIANCE INFORMATION SYSTEM: **MEU503618**

LICENSE NUMBER: **#W003618-5J-E-R**

NAME AND MAILING ADDRESS OF APPLICANT:

**CRAM PROPERTIES, LLC
PO BOX 527
OLD TOWN, MAINE 04468**

COUNTY: **PENOBSCOT**

NAME AND ADDRESS OF FACILITY:

**CRAM PROPERTIES, LLC
ROUTE #15
KENDUSKEAG, MAINE**

RECEIVING WATER/ CLASSIFICATION: **GROUNDWATER /CLASS GW-A**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **EVELYN NILES
207-886-0070
evevotlc@yahoo.com**

1. APPLICATION SUMMARY

On September 7, 2018, the Department of Environmental Protection (Department) accepted as complete for processing an application for the renewal of Waste Discharge License (WDL) #W003618-5J-D-R, which was issued by the Department on November 5, 2013 for a five-year term. The 11/4/2013 WDL authorized CRAM PROPERTIES LLC. (licensee) to discharge 16,740 gallons per day of treated sanitary wastewater from a 62-unit mobile home park to the groundwater, Class GW-A, in Kenduskeag, Maine.

2. LICENSE SUMMARY

- a. Terms and Conditions: This license is carrying forward all the terms and conditions of the previous licensing actions except that:
 1. Eliminates the monitoring requirement for turbidity in Lagoons #1 and #2 (Outfall 001 and Outfall 002) to be consistent with the monitoring parameters at other similar facilities;

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2. LICENSE SUMMARY (cont'd)

2. Eliminates the monitoring requirement for Total Kjeldahl Nitrogen (TKN) and Total Ammonia Nitrogen in Lagoons #1 and #2 (Outfall 001 and Outfall 002) to be consistent with the monitoring parameters at other similar facilities.

b. History: Recent Department licensing actions include the following:

November 6, 1981 – The Department granted WDL #3618 which authorized Country Park, Inc. to discharge 8,700 gallons per day (gpd) of treated wastewater, generated by a 62-unit mobile home park to the groundwater via a lagoon system. WDL #3618 expired on November 6, 1986.

March 16, 1987 – The Department issued WDL #W003618-41-A-R that renewed authorization to discharge 8,700 gpd of treated sanitary wastewater. WDL #W003618-41-A-R expired on March 16, 1992.

September 27, 2000 – Department staff inspected the site of the lagoons and collection system. Staff observed deficiencies with the location and operation of the system and advised the applicant that the existing system could not be relicensed under current wastewater treatment standards. The Department provided the applicant 90 days to develop a revised approach for treating wastewater generated by the mobile home park.

January 3, 2001 – On behalf of Mr. Paul Pray, Dirigo Engineering, Inc. (Dirigo) submitted a groundwater monitoring work plan proposal in order to attempt to demonstrate that the existing system was providing Best Practicable Treatment (BPT) for the generated wastewater and could continue to provide BPT if the lagoons were isolated from the adjacent stream. The plan included provisions to monitor groundwater and surface water levels in the lagoons and adjacent Kenduskeag Stream and to monitor groundwater chemistry.

January 15, 2008 – The Department issued WDL # W003618-5J-C-R / license for a five-year term. At this time the WDL was transferred from Paul Pray to Brian Bickmore. The January 15, 2008 license superseded previous WDLs issued on December 21, 2002, November 6, 1981, and March 16, 1987.

January 15, 2013 – The applicant submitted a complete application to the Department for renewal of the 1/14/08 license. The application was accepted for processing on January 19, 2013, and was assigned WDL #W003618-5J-D-R/ MEPDES #MEU503618.

September 18, 2013 – The Department issued global transfer #W003618-5J-D-T transferring license #W003618-5J-D-R from Country Mobile Home Park to Cram Properties, LLC.

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2. LICENSE SUMMARY (cont'd)

September 7, 2018 – Cram Properties, LLC. submitted a complete General Application to the Department for renewal of the 1/14/08 MEPDES permit. The application was accepted for processing on September 7, 2018, and was assigned #W003618-5J-E-R/MEPDES #MEU503618.

- c. Source Description: The facility is a 62-unit mobile home park located on approximately 22 acres on Route 15 in Kenduskeag. Sources generating wastewater at the site are limited to 62 residential mobile home units in the park. The mobile home park is served by two wells for the domestic drinking water supply. One well is located on the southern corner of the property and the other is located on the western corner of to the property.
- d. Wastewater Treatment (Lagoon Infiltration): Wastewater generated by the 62-unit mobile home park is treated collectively by a series of septic tanks arranged in parallel, each tank serving up to 4 homes. The wastewater is then directed via a network of underground 6-inch diameter metal piping to one of two surface wastewater treatment facultative lagoons arranged in series. The surface lagoon system is approximately 1.8 acres in in size. Except for a few mobile home connections, the collection lines were installed new at the time of the lagoon installation (in or about 1980) and the Department expects relatively small amounts of infiltration and inflow. There are no pumps on the system as all collection piping and system components have been designed to allow the wastewater to flow by gravitation from the source to the lagoon. The previous owner of the facility pumped all the septic tanks annually. The treatment facility is not authorized to accept septage into its system.
- e. Site Conditions: The lagoons are located along the flood plain within 100 feet of the Kenduskeag Stream. The soils around the lagoon are somewhat poorly drained and the vegetation around the lagoons is primarily hardwood trees.

3. CONDITIONS OF THE LICENSE

Pollution Control 38 M.R.S. §414-A(1)(D), requires that the effluent limitations prescribed for discharges require application of best practicable treatment (BPT) and ensure that the receiving waters attain the State water quality standards as described in Maine's groundwater classification system.

4. RECEIVING WATER QUALITY STANDARDS

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

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5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Lagoons

The previous licensing action established and this permitting action is carrying forward a 1/Month monitoring requirement for flow and freeboard, and 1/Quarter monitoring requirement for specific conductance, dissolved oxygen, nitrate-nitrogen, and pH in Lagoons #1 and #2. Monitoring for these parameters yields an indication of the effectiveness of the lagoon treatment process.

A review of the Discharge Monitoring Report (DMR) data for the period of November 2013 through October 2018 indicates the following:

Flow

	Limit	Range (gallons)	Average (gallons)
Lagoon 1 (n=53)	Report	161,928 – 582,048	359,853
Lagoon 2 (n=15)	Report	168,257 – 548,695	343,446

Freeboard (n=53)

	Limit	Range (feet)	Average (feet)
Lagoon 1	Report	2.5 – 6.3	4.4
Lagoon 2	Report	2.5 – 5.8	4.1

Turbidity (n=9)

	Limit	Range (NTU)	Average (NTU)
Lagoon 1	Report	4 – 140	49
Lagoon 2	Report	7 – 119	42

Specific Conductance (n = 9)

	Limit	Range (umhos/cm)	Average (umhos/cm)
Lagoon 1	Report	168 – 469	310
Lagoon 2	Report	170 – 463	305

Dissolved Oxygen (n = 11)

	Limit	Range (ppm)	Average (ppm)
Lagoon 1	Report	1.0 – 11	5.7
Lagoon 2	Report	3.0 – 11	6.9

Nitrate-Nitrogen Concentration (n = 11)

	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Lagoon 1	10	<0.5 – 0.9	<0.5
Lagoon 2	10	<0.5 – 0.5	<0.5

Total Kjeldahl Nitrogen (n = 11)

	Limit	Range (mg/L)	Average (mg/L)
Lagoon 1	Report	1.0 – 16	8.7
Lagoon 2	Report	<1.0 – 15	<7.9

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

Ammonia-Nitrogen (n = 9)

Value	Limit	Range (mg/L)	Average (mg/L)
Lagoon 1	Report	0.2 – 8.5	4.0
Lagoon 2	Report	0.45 – 7.3	3.8

pH (n = 9)

	Limit	Minimum (SU)	Maximum (SU)
Lagoon 1	Report	6.2	8.3
Lagoon 2	Report	6.0	7.7

For averaging purposes, values reported as “less than” were calculated at the detection limit.

The previous permitting action established specific monitoring requirements from 40 CFR Part 445 for sampling dissolved oxygen, turbidity, Total Kjeldahl Nitrogen, and Ammonia-Nitrogen from the lagoon. In accordance with *Waste Discharge License Conditions*, 06-096 CMR 523 (effective January 12, 2001) this licensing action is eliminating the monitoring requirements for dissolved oxygen, turbidity, Total Kjeldahl Nitrogen, and Ammonia-Nitrogen from the lagoon effluent to be consistent with other similar facilities with similar influent composition.

The Department has determined that new information is available that was not available at the time of permit issuance and in establishing the monitoring parameters. Section 402(o) of the Clean Water Act contains prohibitions for anti-backsliding and Department rules reflect those provisions. Generally, anti-backsliding prohibits the issuance of a renewed permit with less stringent limitations than were established in the previous permit. The Department Rules contain certain exceptions to anti-backsliding at *Classification of Maine Waters*, 06-096 CMR 523(5)(1)(2)(B)(1) (effective January 12, 2001).

B. Monitoring Wells

The previous licensing action established, and this licensing action is carrying forward, 1/Quarter monitoring requirement for depth to water level below land surface, specific conductance, dissolved oxygen, turbidity, nitrate-nitrogen, total kjeldahl nitrogen, ammonia-nitrogen and pH in monitoring wells MW-1, MW-3, and MW-4. Monitoring for these parameters yields an indication of the effectiveness of the lagoon treatment process.

During a site visit conducted on December 7, 2012 by Stacie Beyer, MEDEP Compliance Inspector and John Hopeck, ME DEP Senior Geologist, the Department determined that due to recurring instances of nitrate levels exceeding drinking water standards in monitoring well MW-3, that additional monitoring from two previously established surface water sampling points (SW-1 and SW-3) within the Kenduskeag Stream and monitoring wells (MW-2 and MW-5) located further away from the wastewater within the lagoon berm than MW-3, is necessary to determine the effectiveness of the treatment

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

and to verify compliance and protection of the Kenduskeag Stream and of groundwater. Therefore, the Department is incorporating into this licensing action, a 1/Quarter

monitoring requirement for depth to water level below land surface, specific conductance, dissolved oxygen, turbidity, nitrate-nitrogen, total kjeldahl nitrogen, ammonia-nitrogen and pH at monitoring wells MW-2 and MW-5.

Monitoring the concentrations of the parameters cited below prior to the wastewater infiltrating into the ground is critical in assessing potential impacts in the groundwater quality. When downgradient groundwater monitoring results indicate a trend upwards in concentrations for specific conductance, nitrate-nitrogen, total kjeldahl nitrogen and ammonia-nitrogen it may indicate a compromise to the integrity of the lagoon treatment system and may warrant further investigation into the causes for the increases.

A review of the Discharge Monitoring Report (DMR) data for the period of November 2013 through October 2018 indicates the following:

Depth to Water Level Below Land Surface

Monitoring Well	Limit	# Data Points	Range (feet)	Average (feet)
MW-1	Report	19	7.23 – 16.3	11.23
MW-2	Report	19	12.0 – 19.0	16.1
MW-3	Report	17	5.50 – 13.0	10.0
MW-4	Report	19	11.8 – 18.0	15.0
MW-5	Report	19	12.4 – 17.5	14.8

Turbidity

Monitoring Well	Limit	# Data Points	Range (NTU)	Average (NTU)
MW-1	Report	18	0 – 58	6.3
MW-2	Report	19	0 – 135	11.4
MW-3	Report	17	4.0 – 25	10.3
MW-4	Report	19	0 – 45	11.2

1. Specific Conductance, Dissolved Oxygen and pH - These parameters are required to be monitored in the groundwater monitoring wells as they are considered field parameters, meaning that they measured directly in the field via instrumentation and does not require laboratory analysis. However, in certain instances, specific conductance samples may be preserved and forwarded to a laboratory for evaluation. Measured conductance is dependent on the temperature of the sample collected. This parameter is considered a surveillance level monitoring parameter and is used as an early warning indicator of potential groundwater contamination when a trend in the data exists.

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

Specific Conductance

Monitoring Well	Limit	# Data Points	Range (umhos/cm)	Average (umhos/cm)
MW-1	Report	19	78 – 158	110
MW-2	Report	19	30 – 634	367
MW-3	Report	17	207 – 1,012	384
MW-4	Report	19	194 – 686	369
MW-5	Report	14	481 – 632	564

Dissolved Oxygen

Monitoring Well	Limit	# Data Points	Range (ppm)	Average (ppm)
MW-1	Report	19	1.5 – 8.5	4.5
MW-2	Report	19	0.0 – 20	3.5
MW-3	Report	17	0.0 – 1.7	0.83
MW-4	Report	19	0.0 – 23.0	2.2
MW-5	Report	14	0.0 – 1.6	0.77

pH

Monitoring Well	Limit	# Data Points	Minimum (SU)	Maximum (SU)
MW-1	Report	19	5.0	5.9
MW-2	Report	19	5.5	7.45
MW-3	Report	17	5.6	7.1
MW-4	Report	19	5.7	7.4
MW-5	Report	14	6.0	7.5

2. Nitrate-Nitrogen, Total Kjeldahl Nitrogen, Ammonia Nitrogen: Nitrogen compounds are by-products of the biological breakdown of ammonia and are inherent in domestic like sanitary wastewater. Because nitrate-nitrogen is weakly adsorbed by soil, it functions as a reliable indicator of contamination from waste-disposal sites. Also, elevated levels of nitrate-nitrogen in the drinking water supply are of human health concern. The National Primary Drinking Water standard is 10 mg/L.

Nitrate-Nitrogen

Monitoring Well	Limit (mg/L)	# Data Points	Range (mg/L)	Average (mg/L)
MW-1	10	19	<0.5 – 0.5	0.5
MW-2	10	19	1.0 – 9.9	2.6
MW-3	10	17	<0.5 – 14.0	<2.3
MW-4	10	19	<0.5 – 1.6	0.7
MW-5	10	14	<0.5 – 0.5	0.5

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

Total Kjeldahl Nitrogen

Monitoring Well	Limit	# Data Points	Range (mg/L)	Average (mg/L)
MW-1	Report	19	<1.1 – 2.5	1.2
MW-2	Report	19	<1.1 – 3.8	1.4
MW-3	Report	17	<1.1 – 6.6	3.1
MW-4	Report	19	<1.1 – 5.2	2.4
MW-5	Report	19	<1.1 – 5.2	2.4

Ammonia-Nitrogen

Monitoring Well	Limit	# Data Points	Range (mg/L)	Average (mg/L)
MW-1	Report	19	<0.2 – 0.2	0.2
MW-2	Report	19	0.2 – 0.76	0.35
MW-3	Report	17	0.5 – 5.4	2.5
MW-4	Report	19	0.3 – 3.7	1.7
MW-5	Report	14	4.2 – 7.1	5.8

pH

Monitoring Well	Limit	# Data Points	Minimum (SU)	Maximum (SU)
MW-1	Report	19	5.0	5.9
MW-2	Report	19	5.5	7.45
MW-3	Report	17	5.6	7.1
MW-4	Report	19	5.7	7.4
MW-5	Report	14	6.0	7.5

For averaging purposes, values reported as “less than” were calculated at the detection limit.

C. Surface Water Monitoring Locations

The previous licensing action established a 1/Quarter monitoring requirement for specific conductance, dissolved oxygen, turbidity, nitrate-nitrogen, total kjeldahl nitrogen, ammonia-nitrogen and pH in surface water monitoring locations SW-1 and SW-3. Monitoring for these parameters yields an indication of the effectiveness of the lagoon treatment process and to verify compliance and protection of the Kenduskeag Stream and groundwater.

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

Specific Conductance

Monitoring Well	Limit	# Data Points	Range (umhos/cm)	Average (umhos/cm)
SW-1	Report	11	100 – 215	160
SW-3	Report	11	99 – 216	160

Dissolved Oxygen

Monitoring Well	Limit	# Data Points	Range (ppm)	Average (ppm)
SW-1	Report	11	6.6 – 13.3	9.2
SW-3	Report	11	6.4 – 13.6	9.1

Turbidity

Monitoring Well	Limit	# Data Points	Range (NTU)	Average (NTU)
SW-1	Report	11	0.1 – 8.0	3.4
SW-2	Report	11	1.0 – 9	4.2

Nitrate-Nitrogen concentration

Monitoring Well	Limit (mg/L)	# Data Points	Range (mg/L)	Average (mg/L)
SW-1	10	11	<0.5 – 0.5	0.5
SW-3	10	11	<0.5 – 0.5	0.5

Total Kjeldahl Nitrogen

Monitoring Well	Limit	# Data Points	Range (mg/L)	Average (mg/L)
SW-1	Report	11	<1.1 – 6.9	1.7
SW-3	Report	11	<1.1 – 1.1	1.1

Ammonia-Nitrogen

Monitoring Well	Limit	# Data Points	Range (mg/L)	Average (mg/L)
SW-1	Report	11	<0.2 – 0.2	0.2
SW-3	Report	11	<0.2 – 0.2	0.2

pH

Monitoring Well	Limit	# Data Points	Minimum (SU)	Maximum (SU)
SW-1	Report	11	6.4	8.2
SW-3	Report	11	6.6	8.2

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6. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

7. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper on or about August 31, 2018. 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 must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

8. DEPARTMENT CONTACTS

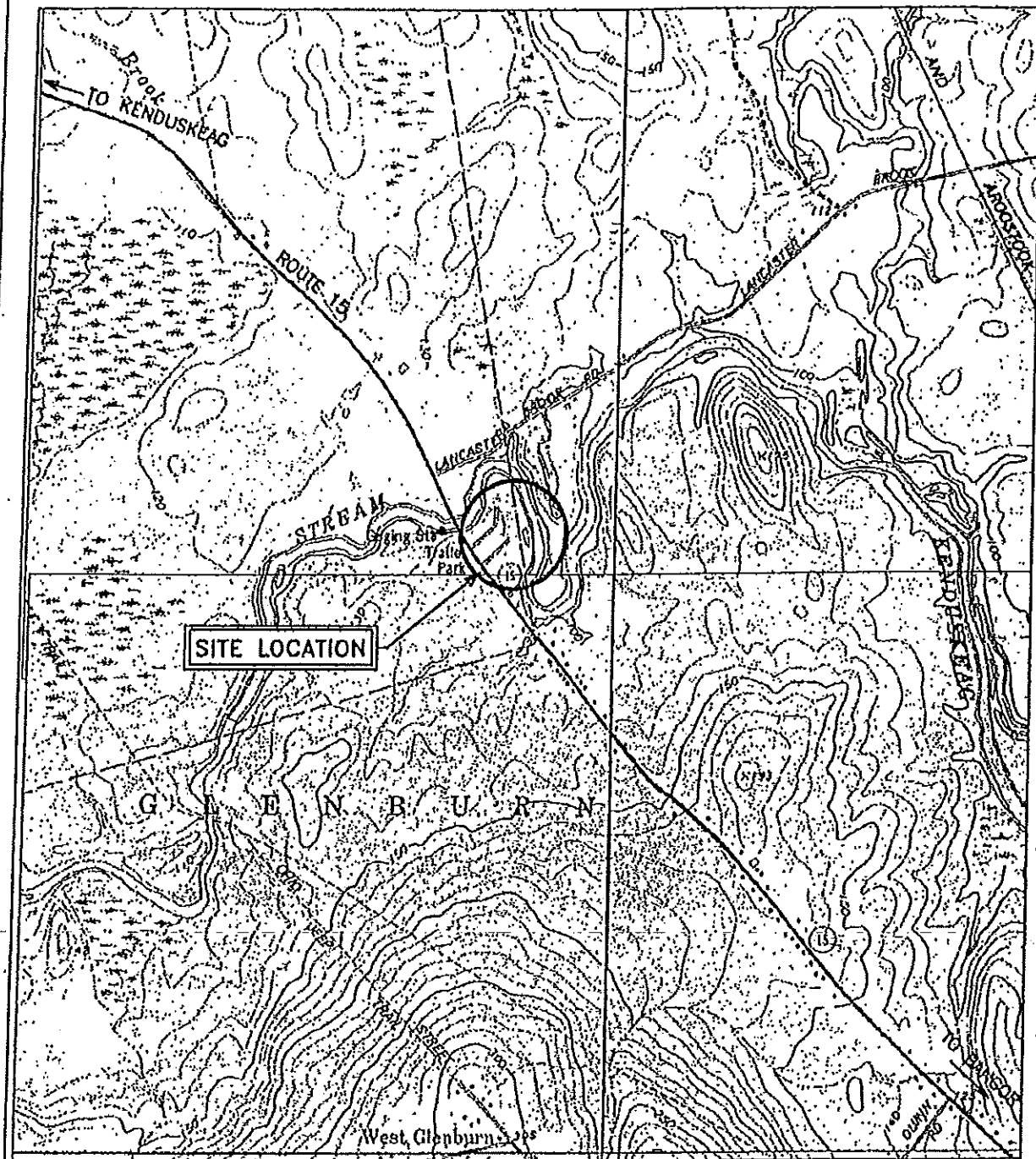
Additional information concerning this permitting action may be obtained from, and written comments sent to:

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

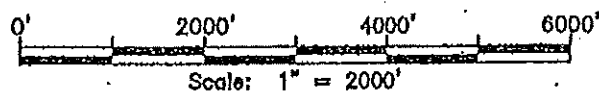
10. RESPONSE TO COMMENTS

During the period of December 11, 2018, through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. The Department did not receive any substantive comment on the draft permit. However, the Department did edit the special condition L. Public Access To Land Application Sites And Signage to be consistent with the previous license language. It is noted that minor typographical and grammatical errors identified in comments were not summarized in this section, but were corrected, where necessary, in the final permit.

ATTACHMENT A



BASE MAP SOURCE: USGS 7.5' TOPO SERIES - KENDUSKEAG & PUSHAW LAKE QUADRANGLES



PRAY'S MOBILE HOME PARK
KENDUSKEAG, MAINE
SITE LOCATION MAP

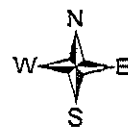
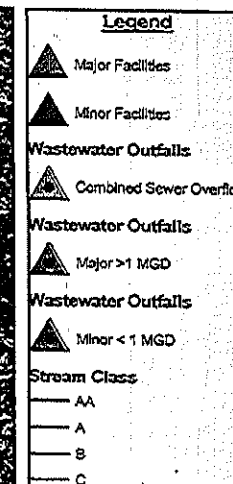
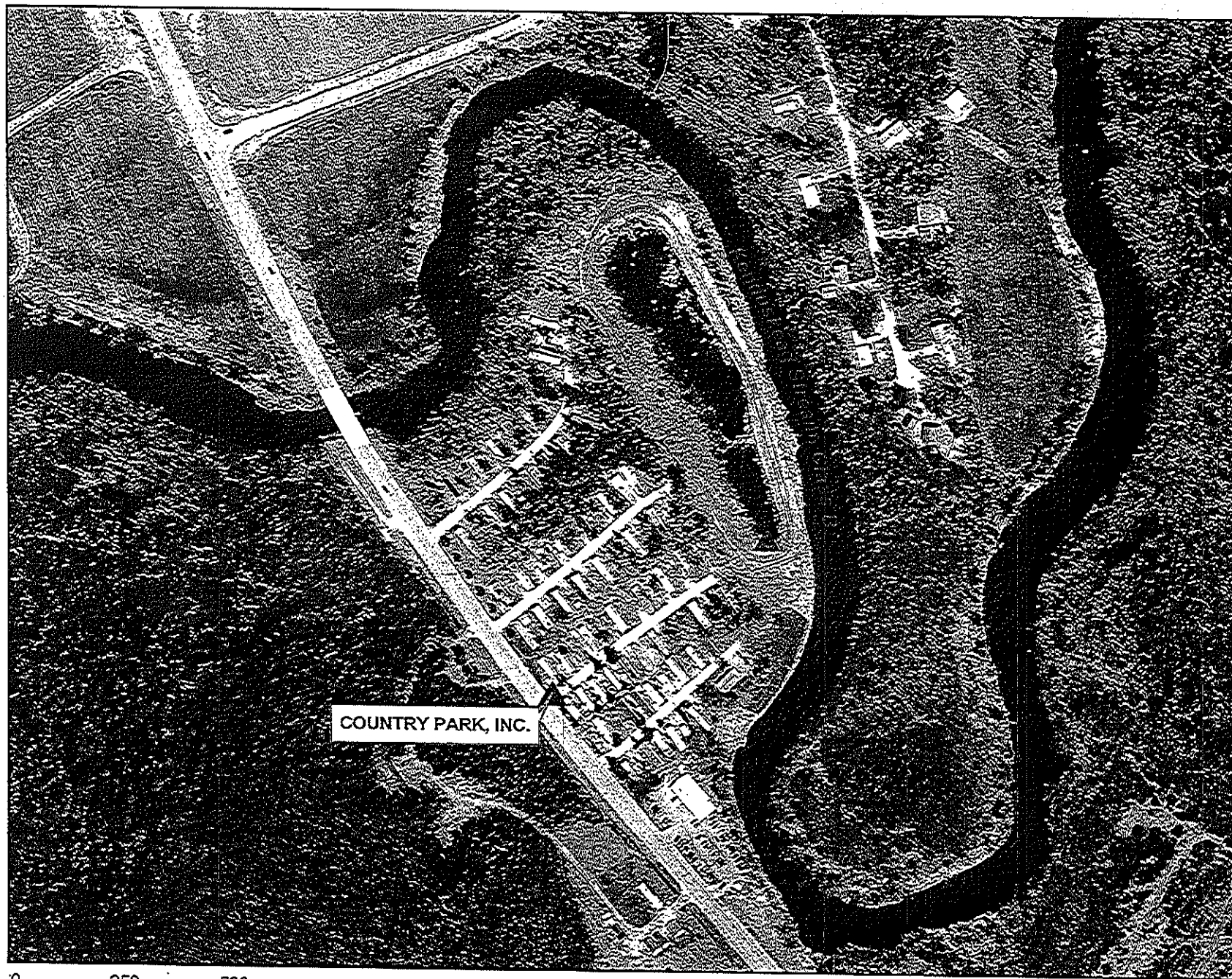
DIRIGO ENGINEERING

168 COLLEGE AVENUE P.O. BOX 557
WATERVILLE, MAINE 04903-0557 (207) 873-5260

FILE = A: SITE MAP

DATE: 1/15/02

#22703



Country Mobile Home Park, Kenduskeag, Maine

Map created by Maine DEP
November 30, 2007



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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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

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

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

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

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

5. Bypasses.

- (a) Definitions.
 - (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c) Notice.
 - (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
 - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The permittee submitted notices as required under paragraph (c) of this section.
 - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (ii) The permitted facility was at the time being properly operated; and
 - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
 - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

D. REPORTING REQUIREMENTS

1. Reporting requirements.

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
 - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
 - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
 - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
 - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
 - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

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

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

- (A) Any unanticipated bypass which exceeds any effluent limitation in the permit.

- (B) Any upset which exceeds any effluent limitation in the permit.

- (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

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

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

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

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

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

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

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

- (i) One hundred micrograms per liter (100 ug/l);

- (ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

- (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (i) Five hundred micrograms per liter (500 ug/l);
 - (ii) One milligram per liter (1 mg/l) for antimony;
 - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
 - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
 - (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
 - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

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

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

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

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

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

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

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

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

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



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

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) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an 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 general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

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

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

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

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

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452, or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
