



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

February 4, 2009

Mr. Kevin Noyes
Town of Patten
P.O. Box 260
Patten, Maine 04765

RE: Permit Compliance System Tracking Number # MEU507775
Maine Waste Discharge License (WDL) Application # W007775-5L-E-M
Minor Revision-Town of Patten

Dear Mr. Noyes:

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

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

If you have any questions regarding this matter, please feel contact me at (207) 287-7658.

Sincerely,

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

Enc.

cc: Sean Bernard, DEP/NMRO
Lori Mitchell, DEP/CMRO

Sandy Mojica, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF PATTEN)	PROTECTION AND IMPROVEMENT
PATTEN, PENOBSCOT COUNTY, MAINE)	OF WATERS
PUBLICLY OWNED TREATMENT WORKS)	
SURFACE WASTE WATER DISPOSAL		
MEU507775)	WASTE DISCHARGE LICENSE
#W007775-5L-E-M)	MINOR REVISION
APPROVAL		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq., and Maine Law 38 M.R.S.A., Section 414-A et. seq., and all applicable regulations, the Department of Environmental Protection (“Department” hereinafter) has considered a request by the Town of Patten (“Town” hereinafter) to modify the Maine Waste Discharge License issued by the Department on December 3, 2008. With its supportive data, agency review comments, and other related materials on file, the Department FINDS THE FOLLOWING FACTS:

MODIFICATIONS REQUESTED

The Town has requested the Department modify the date of lagoon effluent and groundwater sampling for total metals required in Maine Waste Discharge License #MEU507775/W007775-5L-E-M (“license” hereinafter) issued by the Department on 12/03/08. Said license established that lagoon effluent and groundwater sampling for total metals shall be conducted in August 2013. The Town is requesting the Department modify the date to October 2012 in order to coincide with the October 2012 sampling schedule required for other lagoon effluent and groundwater sampling parameters.

MODIFICATIONS APPROVED

This minor revision is establishing a date of October 2012 for lagoon effluent and groundwater sampling for total metals.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated February 4, 2009, 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 M.R.S.A., Section 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 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 request by the TOWN OF PATTEN to modify the date of lagoon effluent and groundwater sampling for total metals in the license issued by the Department on December 3, 2008, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Standard Conditions of POTW Waste Discharge Licenses*, revised July 16, 1996, copy attached to the 12/03/08 Waste Discharge License.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. All other terms and conditions of the 12/03/08 Waste Discharge License not modified by this minor revision remain in effect and enforceable.
4. This minor revision expires on 12/03/13 concurrent with the 12/03/08 Waste Discharge License.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of the request: February 2, 2009

Date of acceptance of the request: February 3, 2009

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

MEU507775 MR 2009

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

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

<u>Parameter</u>	<u>Daily Maximum</u>	<u>Minimum Measurement Frequency</u>	<u>Sample Type</u>
Total Arsenic (inorganic) <i>[01002]</i>	Report <i>[28]</i>	1/Year ⁽⁴⁾ <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Cadmium <i>[01027]</i>	Report <i>[28]</i>	1/Year ⁽⁴⁾ <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Chromium <i>[01034]</i>	Report <i>[28]</i>	1/Year ⁽⁴⁾ <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Copper <i>[01042]</i>	Report <i>[28]</i>	1/Year ⁽⁴⁾ <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Lead <i>[01051]</i>	Report <i>[28]</i>	1/Year ⁽⁴⁾ <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Zinc <i>[01092]</i>	Report <i>[28]</i>	1/Year ⁽⁴⁾ <i>[01/YR]</i>	Grab <i>[GR]</i>

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

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. GROUND WATER MONITORING WELLS B-1, B-7, B-9, B-101, AND B-102 shall be limited and monitored as specified below:

<u>Parameter</u>	<u>Daily Maximum⁽¹²⁾</u>	<u>Minimum Measurement Frequency</u>	<u>Sample Type</u>
Total Arsenic <i>[01002]</i>	Report (ug/L) <i>[28]</i>	1/Year ^(4,8) <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Cadmium <i>[01027]</i>	Report (ug/L) <i>[28]</i>	1/Year ^(4,8) <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Chromium <i>[01034]</i>	Report (ug/L) <i>[28]</i>	1/Year ^(4,8) <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Copper <i>[01042]</i>	Report (ug/L) <i>[28]</i>	1/Year ^(4,8) <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Lead <i>[01051]</i>	Report (ug/L) <i>[28]</i>	1/Year ^(4,8) <i>[01/YR]</i>	Grab <i>[GR]</i>
Total Zinc <i>[01092]</i>	Report (ug/L) <i>[28]</i>	1/Year ^(4,8) <i>[01/YR]</i>	Grab <i>[GR]</i>

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

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes – [Special Conditions A(1), A(2), A(3) & A(4)]

Lagoon Effluent

- (1) Storage lagoon effluent shall be sampled at a point after the pump in the distribution line prior to being pumped to the spray field(s) and shall be representative of what is actually being applied to the fields. Any change in sampling location must be approved by the Department in writing. All sampling and analysis must be conducted in accordance with:
 - a) methods approved in Title 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, c) as otherwise specified by the Department. Laboratories subcontracted for sample analyses are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules* at 10-144 CMR263 (last amended February 13, 2000).
- (2) Monitoring shall be conducted between April 1 and November 30. The licensee is **not** required to test lagoon during a month where no wastewater was disposed of via the disposal system.
- (3) Monitoring shall be conducted between April 1 and May 31.
- (4) Metals testing shall be performed in **October 2012**.

Spray Irrigation Fields

- (5) Weekly is defined as Sunday through Saturday. A field's daily or weekly application rate is the total gallons sprayed over the applicable period of time divided by the size of the wetted area of the field(s) utilized. Note: 27,152 gallons is equivalent to one acre-inch. The licensee shall measure the flow of waste water to the irrigation area by the use of a flow measuring device that is checked for calibration at least once per calendar year.
- (6) For Discharge Monitoring Report (DMR) reporting purposes, the licensee shall report the highest weekly application rate for the month in the applicable box on the form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.

Ground water Monitoring and Underdrain Monitoring

- (7) Depth to water level below the land surface shall be conducted in the months of **May and October** of each calendar year and 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.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

- (8) Ground water sampling shall be conducted via a sampling method that is acceptable to the Department. Ground water sampling (except for metals) shall be conducted in the months of **May and October** of each year. Sampling, handling and preservation shall be conducted in accordance with federally approved methods (See footnote #1).
- (9) Specific conductance (calibrated to 25.0° C), temperature, and pH are considered to be “field” parameters, and are to be measured in the field via instrumentation. The licensee is required to test for these parameters whether or not waste water was disposed of via the spray-irrigation system. 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.
- (10) Storage lagoon underdrain sampling shall be conducted in the months of **July, August and September** of each year. Underdrain samples for UD-1 shall be collected at the manhole structure located adjacent to the westerly side of lagoon #1, whereas samples for UD-3 shall be collected from a manhole northwesterly of the lagoon #3 and south of the Operations Building.
- (11) National Primary Drinking Water Standard.
- (12) See Fact Sheet for applicable National Drinking Water Standards.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain materials in concentrations or combinations which would impair the uses designated by the classification of the groundwater.
2. The effluent must not lower the quality of any classified body of water below such classification nor lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

The treatment facility must be operated by a person holding a minimum of either a Maine **SITS II** certificate, Maine **Grade II** Wastewater Operator certificate or a **Maine Professional Engineer [PE]** certificate 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.

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **February 4, 2009**

PERMIT NUMBER: **MEU507775**
LICENSE NUMBER: **W007775-5L-E-M**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF PATTEN
P. O. Box 260
21 Katahdin Street
Patten, Maine 04765**

COUNTY: **Penobscot County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**81 Lovejoy Road
Patten, Maine 04765**

RECEIVING WATER/CLASSIFICATION: **Ground Water/Class GW-A**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Kevin Noyes
Chief Operator
(207) 528-2215
townofpatten@fairpoint.net**

1. MODIFICATONS REQUESTED

The Town has requested the Department modify the date of lagoon effluent and groundwater sampling for total metals required in Maine Waste Discharge License #MEU507775/W007775-5L-E-M ("license" hereinafter) issued by the Department on 12/03/08. Said license established that lagoon effluent and groundwater sampling for total metals shall be conducted in August 2013. The Town is requesting the Department modify the date to October 2012 in order to coincide with the October 2012 sampling schedule required for other lagoon effluent and groundwater sampling parameters.

2. MODIFICATIONS APPROVED

This minor revision is establishing a date of October 2012 for lagoon effluent and groundwater sampling for total metals.

3. DEPARTMENT CONTACTS

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

Phyllis Rand
Division of Water Quality
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone (207) 287-7658
Email: Phyllis.A.Rand@maine.gov



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.

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.
