



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



PAUL MERCER
COMMISSIONER

August 9, 2017

Mark Draper
Tri-Community Recycling and Sanitary Landfill
P.O. Box 605 Caribou, ME
04736
mark@tricomcommunityrecycling.com

RE: ICIS Tracking Number # MEU508246
Maine Waste Discharge License (WDL) Application # W008246-5J-E-R
Final License

Dear Mark Draper:

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

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

If you have any questions regarding the matter, please feel free to call me at 287-7693.

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

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

Sincerely,

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

Enc. Bill Sheehan, DEP/NMRO, Lori Mitchell, DEP/CMRO, Olga Vergara, EPA, Marelyn Vega,
EPA, Richard Carvalho, EPA, Sandy Mojica, EPA

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

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

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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

TRI-COMMUNITY RECYCLING &)	PROTECTION AND IMPROVEMENT
SANITARY LANDFILL)	OF WATERS
FORT FAIRFIELD, AROOSTOOK COUNTY, ME)		
SURFACE WASTEWATER DISPOSAL SYSTEM)		
MEU508246)	WASTE DISCHARGE LICENSE
W008246-5J-E-R APPROVAL)	RENEWAL

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

APPLICATION SUMMARY

On December 14, 2016, the Department accepted as complete for processing an application from the licensee for the renewal of Waste Discharge License (WDL) #W008246-5J-C-R which was issued by the Department on June 5, 2012, for a five-year term. The 6/5/2012 license and subsequent modifications authorized the operation of a surface wastewater disposal (spray-irrigation) system for the treatment and seasonal disposal of up to 750,000 gallons annually of the liquid portion of the dewatering process onto a 7.5-acre parcel [five fields (SF#1, SF#2, SF#3, SF#4, SF#5) each 1.5 acres] to the north of the active landfill. It is noted the licensee has also reserved an additional 3.0-acre parcel [two fields (SF#6 and SF#7) each 1.5 acres] to the west of the aforementioned spray fields if needed for additional disposal area.

It is noted that the Department made one permit revision since issuing the 6/5/2012 license. On December 4, 2012, the Department issued minor license revision WDL #W008246-5J-D-M to establish a daily maximum limit for biochemical oxygen demand (BOD) of 50 lbs./acre.

LICENSE SUMMARY

This licensing action is carrying forward all the terms and conditions of the previous licensing action except that this licensing action is:

1. Establishing a new limit for Total Suspended Solids (TSS) of 250 mg/L at Outfall #001 so as to be consistent with other septage dewatering operations throughout the state.
2. Amending metals testing for Holding Tank Effluent and monitoring wells to the fourth year of the permit.

CONCLUSIONS

Based on the findings summarized in the attached and incorporated Fact Sheet dated July 28, 2017, and subject to the special and standard conditions that follow, the Department makes the following CONCLUSIONS:

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

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ACTION

THEREFORE, the Department APPROVES the above noted application of TRI-COMMUNITY RECYCLING & SANITARY LANDFILL, to operate a surface wastewater disposal (spray irrigation) associated with a Municipal Solid Waste Landfill located Fort Fairfield, Maine, and with a maximum flow rate of 122,175 gallons per week to the soil above ground water resources of the state, Class GW-A, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

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

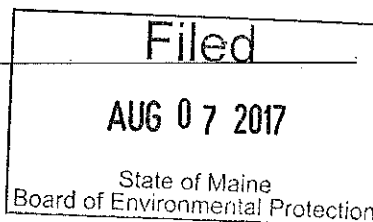
PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 7th DAY OF August 2017.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:


for PAUL MERCER, Commissioner



Date filed with Board of Environmental Protection _____

Date of initial receipt of application: December 12, 2016

Date of application acceptance: December 14, 2016

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

Parameter	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Biochemical Oxygen Demand [00310]	Report mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
Total Suspended Solids [00530]	250 mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
Nitrate-Nitrogen [00620]	Report mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
PH (Standard Units) [00400]	Report S.U. [12]	1/Month ⁽²⁾ [01/30]	Grab [GR]
<u>Metals (Total)</u> : Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel and Zinc [01002, 01027, 01034, 01042, 01051, 71900, 01067, 01092]	Report ug/L [28]	1/5 Years ⁽³⁾ [01/5Y]	Grab [GR]

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

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

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SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

2. The **SPRAY IRRIGATION FIELD (SF#1, SF#2, SF#3, SF#4, SF#5, SF#6, SF#7)** must be limited and monitored as specified below:

(May 15th – November 15th)

Parameter	Monthly <u>Total</u> as specified	<u>Weekly Average</u> as specified	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u>
Application Rate (Weekly) ⁽⁴⁾ [51128]	---	24,435 gal/week ⁽⁵⁾ [57]	---	1/Week [01/07]	Calculate [CA]
Flow – Total Gallons [82220]	Report (Gallons) [80]	---	---	1/Month [01/30]	Calculate [CA]
Biochemical Oxygen Demand [00310]	---	50 lbs./acre [3P]	---	1/Month ⁽²⁾ [01/30]	Grab [GR]

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

Footnotes: Refer to pages 7 – 8 for footnotes.

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SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. **GROUND WATER MONITORING WELL (MW-2 & MW-7)** must be limited and monitored as specified below:

Parameter	Daily <u>Maximum</u> As specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Depth to Water Level Below Landsurface <i>[72019]</i>	Report (feet) ⁽⁶⁾ <i>[27]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Measure <i>[MS]</i>
Nitrate-Nitrogen <i>[00620]</i>	Report (mg/L) <i>[19]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
Specific Conductance <i>[00095]</i>	Report (umhos/cm) <i>[11]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
Temperature (°F) <i>[00011]</i>	Report (°F) <i>[15]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
pH (Standard Units) <i>[00400]</i>	Report (S.U.) <i>[12]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
Total Suspended Solids <i>[00530]</i>	Report (mg/L) <i>[19]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
<u>Metals (Total):</u> Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel and Zinc <i>[01002, 01027, 01034, 01042, 01051, 71900, 01067, 01092]</i>	Report (ug/L) <i>[28]</i>	1/5 Years ⁽³⁾ <i>[02/5Y]</i>	Grab <i>[GR]</i>

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

Footnotes: Refer to pages 7 – 8 for footnotes.

SPECIAL CONDITIONS

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

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

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

1. **Holding Tank Effluent Sample Location** – Holding tank effluent must be sampled at a point prior to being pumped to the spray field and must be representative of what is actually being applied to the field.
2. **Holding Tank Effluent** – Holding tank effluent sampling must be conducted 1/Month between May – November (inclusive). The permittee is not required to test for these parameters during a month where no wastewater was disposed of via the disposal system.
3. **Metals** – The licensee must conduct one round of testing for the specified metals during the fourth year of the license, unless otherwise specified by the Department.
4. **Weekly** – Weekly is defined as Sunday through Saturday.
5. **Spray Irrigation Field** – The limitation of 24,435 gallons/week applies to each 1.5-acre spray field. For Discharge Monitoring Report (DMR) reporting purposes, the licensee must 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.
6. **Depth to Water Level** – Depth to water level below the land surface must be measured in the spring (**April or May**) and in the fall (**October or November**) of each calendar year and measured to the nearest one tenth ($1/10^{\text{th}}$) of a foot as referenced from the surface of the ground at the base of the monitoring well.

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SPECIAL CONDITIONS

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

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

7. **Ground Water Sampling** – Ground water sampling (MW-2 and MW-7) must be conducted in the spring (**April or May**) and in the fall (**October or November**) of each year. Sampling, handling and preservation must be conducted in accordance with federally approved methods (See Sampling footnote #1). 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 regardless of whether wastewater was disposed of via the spray-irrigation system or not.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent must not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the use designated by the classification of the groundwater.
2. The effluent must not lower the quality of any classified body of groundwater below such classification, (ground water is a classified body of water under 38 M.R.S. § 465-C) or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a **Maine Grade SITS-I** certificate or higher (or Registered Maine Professional Engineer) pursuant to Title 32 M.R.S. §4171- 4182 *et seq.* and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the licensee may engage the services of the contract operator.

D. NOTIFICATION REQUIREMENT

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

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

SPECIAL CONDITIONS

E. AUTHORIZED DISCHARGES

The licensee is authorized to discharge only in accordance with: 1) the licensee's General Application for Waste Discharge License, accepted for processing on December 14, 2016; 2) the terms and conditions of this license; and 3) only to the existing spray-irrigation fields (Fields #1-#7) and from those sources as indicated in the 12/14/2016 Waste Discharge License Application. Discharges of wastewater from any other point source(s) are not authorized under this license, and must be reported in accordance with Standard Condition D(1)(F), *Twenty-four hour reporting*, of this license.

F. GENERAL OPERATIONAL CONSTRAINTS

1. All wastewaters must receive primary treatment through a properly designed, operated and maintained treatment system prior to disposal.
2. The surface wastewater disposal facilities must be effectively maintained and operated at all times so that there is no discharge to surface waters, nor cause or contribute to contamination of ground water which will render it unsatisfactory for usage as a public drinking water supply.
3. The surface wastewater disposal system must not cause the lowering of the quality of the groundwater, as measured in the groundwater monitoring wells specified by this license, below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to *Drinking Water Regulations*, 22 M.R.S. §2611.

In the event that groundwater monitoring results indicate lowering of the existing groundwater quality, the licensee may be required to take immediate remedial action(s), which may include, but not be limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, groundwater remediation, or ceasing operation of the system until the groundwater attains applicable standards.

4. The 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 inspections and monitoring by both the licensee and the Department.
5. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells must be identified and referenced by a unique system identifier in all logs and reports.

The licensee must cease irrigation if runoff is observed outside the designated boundaries of the spray area(s). The licensee must field calibrate equipment to ensure proper and uniform spray applications when operating. Calibration involves collecting and measuring application rate at different locations within the application area. A description of the calibration procedures and a log sheet that have been used for calibration results must be included as part of the Operations & Maintenance manual.

SPECIAL CONDITIONS

G. SPRAY-IRRIGATION OPERATIONAL CONSTRAINTS

1. Suitable vegetative cover must be maintained. Wastewater may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff outside the designated boundaries of the spray field.
2. At least 10 inches of separation from the ground surface to the ground water table must be present prior to spray irrigating.
3. No wastewater must be applied to the site following a rainfall accumulation exceeding 1.0 inch within the previous 8-hour period. A rain gauge must be located on site to monitor daily precipitation. The licensee must also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.
4. No wastewater may be applied where there is snow present on the surface of the ground.
5. No wastewater may be applied when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
6. No traffic or equipment must be allowed in the spray-irrigation field except where installation occurs or where normal operations and maintenance are performed.

H. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS

1. Prior to the commencement of spray irrigation for the season, the licensee must notify the Department's compliance inspector that they have verified that site conditions are appropriate (frozen ground, soil moisture, etc.) for spray irrigation.
2. The licensee must at all times maintain in good working order and operate at maximum efficiency all wastewater collection, treatment and/or control facilities. Should significant malfunctions or leaks be detected, the licensee must shut down the malfunctioning/leaking sections of the spray system and make necessary repairs before resuming operation. The licensee must cease irrigation if runoff is observed outside the designated boundaries of the spray field(s).
3. The licensee must maintain a daily log of all spray irrigation operations which records, date, weather, temperature, rainfall, depth to ground water in observation wells and volume sprayed (gallons) and other relevant observations/comments from daily inspections. The log must be in accordance with the format of the "Monthly Operations Log" provided as **Attachment A** of this license.

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

SPECIAL CONDITIONS

I. INSPECTIONS AND MAINTENANCE

The licensee must periodically inspect all system components to ensure the facility is being operated and maintained in accordance with the design of the system. Maintenance logs must be maintained for each major system component including pumps, pump stations, storage tanks, spray apparatus, and pipes. At a minimum, the logs must include the unique identifier [alphabetic, numeric or alpha-numeric - see Special Condition F(5)], the date of maintenance, type of maintenance performed, names or person performing the maintenance, and other relevant system observations.

J. GROUNDWATER MONITORING WELLS

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

K. PUBLIC ACCESS TO LAND APPLICATION SITES AND SIGNAGE

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

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

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

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 onsite 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.

SPECIAL CONDITIONS

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.

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
Northern Maine Regional Office
Bureau of Water Quality
Division of Water Quality Management
1235 Central Drive
Presque Isle, Maine 04769

SPECIAL CONDITIONS

N. REOPENING OF LICENSE FOR MODIFICATION

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this licensing action, new site specific information, or any other pertinent test results or information obtained during the term of this license, the Department may, at any time and with notice to the licensee, modify this license to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

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.

Attachment A

Monthly Operations Log

Tri-Community Landfill (WDL #W008246)

(Month/Year) _____

Spray Field # _____

Weekly Application Rate: _____ gallons/week

A	B	C	D	E	F	G
Date	Precipitation Previous 24 hours (inches)	Air Temp (°F)	Weather	Wind- Direction Speed (mph)	Depth To GW in Observation well (inches)	Total Gallons Pumped (gallons)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
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24						
25						
26						
27						
28						
29						
30						
31						

Signature of Responsible Official: _____ Date _____

Attachment B

Spray Application Report by Week

Tri-Community Landfill (WDL #W008246) (Month/Year) _____

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

Signature of Responsible Official: _____ Date _____

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **July 28, 2017**

COMPLIANCE TRACKING NUMBER: **MEU508246**
WASTE DISCHARGE LICENSE: **W008246-5J-E-R**

NAME AND ADDRESS OF APPLICANT:

**TRI-COMMUNITY RECYCLING & SANITARY LANDFILL
P.O. BOX 605, MURPHY ROAD
CARIBOU, ME. 04736**

COUNTY: **AROOSTOOK COUNTY**

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

**TRI-COMMUNITY RECYCLING & SANITARY LANDFILL
MURPHY ROAD
FORT FAIRFIELD, ME.**

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

COGNIZANT OFFICIAL CONTACT INFORMATION:

**MR. MARK DRAPER
SOLID WASTE DIRECTOR
(207)-374-9987
mark@tricomcommunityrecycling.com**

1. APPLICATION SUMMARY

On December 14, 2016, the Department of Environmental Protection (Department) accepted as complete for processing an application from Tri-Community Recycling & Sanitary Landfill (licensee/TCL) for the renewal of Waste Discharge License (WDL) #W008246-5J-C-R which was issued by the Department on June 5, 2012, for a five-year term. The 6/5/2012 license and subsequent modifications authorized the operation of a surface wastewater disposal (spray-irrigation) system for the treatment and seasonal disposal of up to 750,000 gallons of the liquid portion of the dewatering process onto a 7.5-acre parcel [five fields (SF#1, SF#2, SF#3, SF#4, SF#5) each 1.5 acres] to the north of the active landfill. It is noted the licensee has also reserved an additional 3.0-acre parcel [two fields (SF#6 and SF#7) each 1.5 acres] to the west of the aforementioned spray fields if needed for additional disposal area.

On December 4, 2012, the Department issued a minor revision to the 6/5/2015 license such that the biochemical oxygen demand (BOD) daily maximum limit of 50 lbs./acre on page 4 of the license (applicable to holding tank effluent) be moved to page 5 of the license (applicable to spray irrigation fields) as the limit was intended to limit the quantity of BOD sprayed onto the spray fields.

2. LICENSE SUMMARY

- a. Terms and Conditions: This licensing action is carrying forward all the terms and conditions of the previous licensing action and subsequent minor revisions except that this licensing action is:
1. Establishing a new limit for Total Suspended Solids (TSS) of 250 mg/L at Outfall #001 so as to be consistent with other septage dewatering operations throughout the state.
 2. Amending metals testing for Holding Tank Effluent and monitoring wells to the fourth year of the permit.
- b. History: This section provides a summary of significant licensing actions and milestones that have been completed for the licensee.

May 17, 2007 – The Department issued a new Waste Discharge License (WDL) #W008246-5J-A-N/Permit Compliance System Tracking (PCS) #MEU508246 to Tri-Community Recycling and Community Landfill. The Order allowed for the disposal of up to 122,175 gallons per week (750,000) of treated wastewater from a septage dewatering operation week to the soil above ground water resources of the state, Class GW-A.

June 4, 2007 – The Department issued a letter correcting a typographical error in the schedule of compliance for the submission of an Operation and Maintenance Plan as required in the May 21, 2007 from May 1, 2007 to June 1, 2007.

October 3, 2008 – The Department issued Minor Revision WDL #W008246-5J-B-M/PCS #MEU508246 for a five year term.

December 4, 2012 – The Department issued WDL # W008246-5J-D-M/(PCS) #MEU508246 to Tri-Community Recycling and Community Landfill to establish a daily maximum limit for biochemical oxygen demand (BOD) of 50 lbs./acre.

December 12, 2016 – Tri-Community Recycling and Community Landfill submitted a timely and complete application to the Department to renew WDL #W008246-5J-D-M/#MEU508246 for the disposal of up to 122,175 gallons per week (750,000) of treated wastewater from a septage dewatering operation week to the soil above ground water resources of the state, Class GW-A.

- c. Source Description: Tri-Community Landfill currently holds a Septage Storage License # S-004838-S4-F-A in accordance with the State of Maine, Environmental Protection, Chapter 420, Septage Management Rules, to receive, store, and dewater residential and light commercial septage sludge from septic holding tanks and similar systems. This material is brought to the facility by local septage haulers and deposited within the existing storage tanks. Currently the facility receives approximately 550,000 gallons of waste per year. The facility is set up to process a maximum of 750,000 gallons per year. The facility currently has the capability to temporarily store approximately 202,000 gallons of waste septage. Septage haulers discharge their load through a bar screen and into large on-site tanks. Two of the existing storage tanks are capable of holding 45,000 gallons (each) and are constructed with double walled construction. Local haulers from surrounding communities are provided access to the site six days a week throughout the year. The material received is typical septage from residential and light commercial septic holding tanks.

2. LICENSE SUMMARY (cont'd)

- d. Pretreatment - The treatment process at TCL is a simplified process which uses above ground storage tanks, in-tank mixers, a fixed transfer pump, a polymer injection system, and a portable containerized dewatering unit for the dewatering of residential septage sludge. Local haulers access the facility and transfer residential septage into one of two on-site above-ground steel storage tanks. Septage is conveyed through a bar screen prior to entering the storage tanks in order to filter out large debris.

The facility currently uses a septage dewatering system to separate the liquid fraction and solids fraction of the waste. The “DeTainer” trailer system is a roll off style container with removable interior filter panels. The pretreatment process also uses a polymer additive injected into the process wastewater to flock suspend particles which coagulate inside the container. The container filter panels are equipped with 700-micron filter screens which allow clear liquids to separate from the solids and be pumped into adjacent storage tanks or transport trailers. Current process operations have the capability of treating approximately 24,000 gallons per day. Once the dewatering container has reached its capacity the unit is allowed to dewater overnight and then the solids are disposed inside the active landfill. The manufacturer of the “DeTainer” states that the liquid waste characteristics, once filtered, reduces chemical oxygen demand (COD), BOD, and suspended solids by approximately 50%.

- e. Storage - The Tri-Community Landfill facility currently has the capacity to temporarily store approximately 202,000 gallons of septage on site. Two storage tanks can hold approximately 90,000 gallons and have double-wall containment. These tanks are the two primary septage storage tanks on site and are equipped with twenty-five horse power in-tank mixers used to suspend settled solids prior to processing. The remaining 112,000 gallons are contained within single-walled storage tanks.

The spray irrigation process is to treat the liquid fraction of the waste through soil infiltration. During the winter months septage brought to the site is stored within the existing tanks or conveyed to the Caribou Utility District via a constructed piping network. Once the ground has thawed in the spring, the facility will begin processing the stored material and spray-irrigate the liquid portion. Daily discharge of separated septage will be approximately 24,000 gallons per day. Past volumes of received septage shows that between mid-November and mid-May the facility receives between 110,000 gallons and 120,000 gallons of septage, or about 20% of the annual volume. It is unlikely that this volume will vary much in the future since most septic tanks are pumped and cleaned during the spring, summer and fall months when the ground is not frozen. Currently there is enough capacity within the existing storage tanks to hold waste until acceptable spray irrigation conditions arrive each spring.

- f. Land treatment – TCL has a spray irrigation system that includes a portable agricultural spray irrigation pump, above-ground aluminum spray irrigation transmission piping, and a Reel Rain Traveler manufactured by Hobb-Adams Engineering. **Attachment A** of this Fact Sheet depicts the location of the proposed transmission line and spray irrigation area. The Reel Rain has sufficient hose capacity to travel 1,210 lineal feet per pull with a typical spray width of 270 feet for a spray area of approximately 7.5 acres with an additional 3.0 acres of reserved land for a total of 10 acres. Irrigation rates for the Rain Reel are controlled based on pressure, hose size, and travel speeds. The spray irrigation site consists of a 7.5 acre area consisting of very deep, moderately well drained Perham soils situated within a 40 acre grassed field along the north side of the TCL property.

2. LICENSE SUMMARY (cont'd)

The grass which is currently growing on the property is likely a mixture of different grass species but is primarily a tall fescue type grass. The nutrient loadings to the spray irrigation site are 1,000 lbs./year of nitrogen and 250 lb./year of phosphorus.

Based on published nutrient uptake rates for fescue type grass, the licensee has calculated the following area requirement to assimilate the loadings:

Nitrogen up-take: $(1,000 \text{ lb./year}) / (\text{assumed } 150 \text{ lb./ac per year}) = 6.8 \text{ acres.}$

Phosphorus up-take: $(250 \text{ lb./year}) / (26.7 \text{ lb./ac per year}) = 9.4 \text{ acres}$

The hydraulic loading rate is based on the permeability of the soil. The EPA design manual for Land Treatment of Municipal Wastewater states that the maximum daily design percolation rate should not exceed 4% to 10% of the minimum soil permeability. In this case the Perham soil is shown to have a permeability of approximately be 0.6 – 2.0 inches per hour. The calculation below is using the more conservative percolation rate for this scenario.

$$\begin{aligned} \text{Percolation rate} &= (\text{permeability, inches/hour})(24 \text{ hours/day})(4\%) = \\ &= (0.6 \text{ inches/hour})(24 \text{ hours/day})(0.04) = 0.60 \text{ inches/day} \end{aligned}$$

Based on an application rate of 0.6 inches per day, each acre can receive 2,178 cubic feet of water, or approximately 16,300 gallons. Utilizing this application rate each process day will require approximately 1.5 acres $[(24,000 \text{ gallons per day}) / (16,300 \text{ gallons/day per acre})]$.

At this time licensee estimates that at peak operation, the facility will require approximately 32 days of processing each year (750,000 gallons per year / 24,000 gallons per day). Processing for the purpose of spray irrigation will be between May 15 and November 15 of each year. Each of the five daily spray irrigation sites will be 1.5 acres in size for a total of 7.5 acres. This will provide enough acreage to allow the facility to spray irrigate each day per work week, and provide for a sufficient resting period between application days. The estimated total of 10.5 acres is also sufficient to handle all nutrient loadings associated with nitrogen and phosphorus. TCL mows the spray irrigation site twice annually to maintain a balanced soil nutrient condition.

- g. Operational and environmental monitoring – The licensee proposes to maintain spray irrigating the liquid fraction at a rate of 16,290 gal/acre/week or 24,435 gal/week for each sprayfield. Each of the five daily spray irrigation sites is 1.5 acres in size for a total of 7.5 acres. The five areas are staked/marked in the field to indicate to personnel the starting and ending position of the spray irrigation equipment. TLC maintains two ground water quality monitoring wells on site that are sampled 2/Year for basic field parameters, Nitrate-Nitrogen and metals testing 1/5 Years.

3. CONDITIONS OF LICENSE

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

4. RECEIVING WATER QUALITY STANDARDS

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

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Effluent and Groundwater Monitoring

- a. Application rate – The license carries forward an application rate of 0.6 inches/acre/week or 16,290 gallons/acre/week or 24,435 gallons/week per spray field. With five spray fields at 1.5 acres each (3.0 acres held in reserve) for a total of 7.5 acres utilized per week, this license authorizes the facility to dispose of 122,175 gallons/week. The application rate is being expressed as a gallons/week for each 1.5-acre field as opposed to gallons/acre/week to be consistent with other like licensing actions. The weekly rate is calculated as follows:

$$(16,290 \text{ gal/acre/week})(1.5 \text{ acres}) = 24,435 \text{ gallons/week}$$

Summaries of the spray-irrigation area monitoring results for the period June 2011 – June 2017 are as follow:

Application Rate

Spray Feild	Weekly Average gallons/week	Range (gallons/week)	Average (gallons/week)	DMRs
SF 1	24,435	6,050-6,050	6,050	1
SF 2	24,435	5,525 – 7,080	6,271	26
SF 3	24,435	5,726 – 10,625	6,643	26
SF 4	24,435	5,726 – 11,962	6,718	26
SF 5	24,435	5,726 – 11,962	6,710	26
SF 6	24,435	N/A	N/A	0
SF 7	24,435	N/A	N/A	0

This licensing action is carrying forward the spray-irrigation application rate reporting requirements from the previous licensing action.

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

OUTFALL #001

- b. Biochemical Oxygen Demand (BOD₅) & Total Suspended Solids (TSS) - Monitoring for BOD and TSS in the effluent from the holding tank yields an indication the condition of the wastewater being applied, of excessive loading of organic material and the effectiveness of the spray-irrigation treatment process. The 5/17/07 license established a daily maximum BOD concentration limit of 200 mg/L based on a best professional judgment of a limitation that is attainable given the high strength nature of the raw septage. This limitation also represented a 99% removal rate.

On October 3, 2008, the Department issued WDL modification W008246-5J-B-M that eliminated the technology based daily maximum effluent concentration limit for BOD and establishing a daily maximum mass soil loading rate for BOD. The Department relied on research conducted by Michigan State University between 2005 and 2007 in a paper entitled, *"Capacity of Soils to Assimilate Wastewaters from Food Processing Facilities"* to support the modification. The research paper indicates that soils must be given adequate drying time to assimilate the BOD loading thus, hydraulic loading rates is also important. The licensee currently provides for five days of drying for each of the five spray fields. The paper indicates that with well drained soils, BOD loading rates varying from 30 -150 lbs./day with adequate drying times assimilated 99 percent of the BOD applied.

The previous permit and subsequent minor revisions established a daily maximum limit for BOD of 50 lbs./acre, and a technology based best practicable treatment (BPT) limitation for TSS of 100 mg/L which was representative of wastewater treatment operations. However, in order to be consistent with other septage dewatering operations the Department is establishing a limit of 250 mg/L. The Department reviewed the DMRs that were submitted for the reporting period from June 2012 – April 2016. A review of the data indicates the following:

BOD₅ – Outfall #001 (DMRs=25)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	100 mg/L	100 – 1,200	478

BOD₅ – Spray Fields

Spray Field	Daily Maximum lbs./acre	Range (lbs./acre)	Average (lbs./acre)	DMRs
SF 1	50 lbs./acre	0 – 31	31	1
SF 2	50 lbs./acre	3.20 – 47.00	16.6	23
SF 3	50 lbs./acre	3.20 – 47.00	16.6	23
SF 4	50 lbs./acre	3.20 – 47.00	16.6	23
SF 5	50 lbs./acre	3.20 – 47.00	16.7	23
SF 6	50 lbs./acre	N/A	N/A	0
SF 7	50 lbs./acre	N/A	N/A	0

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)**TSS – Outfall #001 (DMRs=26)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	100 mg/L	10 – 310	80

For the reporting period from June 2012 – April 2017 there were 5 excursions from the 100 mg/L limitation. While the previous limit of 100 mg/L is representative of facilities that process wastewater, the Department is using Best Professional Judgment (BPJ) of Best Practicable Technology (BPT) to establish a limit of 250 mg/L which is representative of facilities that dewater septage.

Section 402(o) of the Clean Water Act contains prohibitions for anti-backsliding and Department rules reflect those provisions. Generally, antibacksliding prohibits the issuance of a renewed permit with less stringent limitations than were established in the previous permit. The Clean Water Act contains certain exceptions to antibacksliding at Section 402(o)(2). In the case of TCL and the increase of the daily maximum concentration limit, the Department has determined that although the facility has installed and properly operated and maintained equipment to meet the effluent limit in the previous permit, the facility has been unable to constantly achieve the previous TSS limit. Section 402(o)(2)(B)(i) of the Clean Water Act contains an exception to anti-backsliding for this situation which justifies the application of a less stringent effluent limitation. Therefore, this permitting action is establishing a Daily Maximum concentration limit for TSS, which is representative of facilities that dewater septage. [It is noted that anti-backsliding prohibitions and exceptions are mirrored in Chapter 523 of the Department's rules at 40 CFR 122.44(1)(2)(i)(E).]

- c. Nitrate-nitrogen – Nitrogen compounds are by-products of the biological breakdown of ammonia and are inherent in domestic sanitary wastewater. Because nitrate-nitrogen is weakly absorbed by soil, it functions as a reliable indicator of contamination from waste-disposal sites. Elevated levels of nitrate-nitrogen in the drinking water supply are of human health concern. The limit of 10 mg/L is a National Primary Drinking Water standard.

This licensing action is carrying forward nitrate-nitrogen monitoring requirement from the previous licensing action. The Department reviewed the DMRs that were submitted for the reporting period from June 2012 – April 2017. A review of the data indicates the following:

Nitrate-nitrogen effluent (DMRs=25)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	Report	<0.10 – <0.50	0.2

- d. Specific Conductance, Temperature, Dissolved Oxygen, and pH – These parameters are considered to be “field” parameters meaning that they are measured directly in the field via instrumentation and do not require laboratory analysis. They are considered a surveillance level monitoring parameters that are used as an early-warning indicator of potential groundwater contamination. Dissolved oxygen is an important parameter because the spray irrigation system has the potential to introduce significant organic carbon to groundwater and it is important to determine if the increased organic loading reduces the amount of the dissolved oxygen present in groundwater.

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

This licensing action is carrying forward the pH monitoring requirement from the previous licensing action. The Department reviewed the DMRs that were submitted for the reporting period from June 2012 – April 2017. A review of the data indicates the following:

pH – Outfall #001

Value	Limit (S.U.)	Range (S.U)	DMRs
<i>Daily Maximum</i>	Report	6.2 – 8.0	26

- e. Metals – Monitoring for metals is important as low pH wastewater applied to the soils may enhance the leaching of metals from the soils which in turn will be released to ground water. There are both primary and/or secondary drinking water standards associated with metals.

This licensing action is carrying forward the totals metals monitoring requirements from the previous licensing action. Results reported as “less than” (<) were considered present for calculation purposes. The Department reviewed the DMRs that were submitted for the reporting period from June 2011 – April 2017. A review of the data indicates the following:

Total Metals – Outfall #001

Parameter	Daily Max Limit(mg/L)	Result (ug/L)	DMRs
Arsenic	Report	0.005	1
Cadmium	Report	0.005	1
Chromium	Report	0.01	1
Copper	Report	0.01	1
Lead	Report	0.01	1
Mercury	Report	0.0002	1
Nickel	Report	0.025	1
Zinc	Report	0.005	1

MONITORING WELLS

Monitoring Wells	ISIS Code	Location
MW-2	MW-2	Southeast of Spray Field #1
MW-7	MW-7	South of Spray Field #5, and adjacent to the Wood Debris Burn Area.

This licensing action is carrying forward conditions established in the previous licensing actions and subsequent minor revisions. MW-2, MW-7 must be monitored in this licensing action. Summaries of the monitoring well monitoring results for the period June 2012 – April 2017 are as follows:

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

e. Depth to Water Level Below Landsurface

Monitoring Well	Daily Max. (Feet)	Range (Feet)	Average (Feet)
MW-2	Report	4.7 – 12	7.7
MW-7	Report	0.3 – 7.2	3.08

- f. Nitrate-nitrogen – Nitrogen compounds are by-products of the biological breakdown of ammonia and are inherent in domestic sanitary wastewater. Because nitrate-nitrogen is weakly absorbed by soil, it functions as a reliable indicator of contamination from waste-disposal sites. Elevated levels of nitrate-nitrogen in the drinking water supply are of human health concern. The limit of 10 mg/L is a National Primary Drinking Water standard.

This licensing action is carrying forward nitrate-nitrogen monitoring requirement from the previous licensing action. The Department reviewed the DMRs that were submitted for the reporting period from June 2012 – April 2017. A review of the data indicates the following:

Nitrate-nitrogen – (DMRs=8)

Monitoring Well	Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
MW-2	Daily Maximum	Report	<0.1 – <0.5	<0.3
MW-7	Daily Maximum	Report	<0.1 – <0.5	<0.3

- g. Specific Conductance – This licensing action is carrying forward the specific conductance monitoring requirement from the previous licensing action. The Department reviewed the DMRs that were submitted for the reporting period from June 2012 – April 2017. A review of the data indicates the following:

Specific Conductance – (DMRs=8)

Monitoring Well	Value	Limit (umhos/cm)	Range (umhos/cm)	Mean(umhos/cm)
MW-2	Daily Maximum	Report	250 – 567	419.3
MW-7	Daily Maximum	Report	69 – 419	211

- h. Temperature – This licensing action is carrying forward the temperature monitoring requirement from the previous licensing action.

Temperature – (DMRs=8)

Monitoring Well	Value	Limit (°F)	Range (°F)	Mean (°F)
MW-2	Daily Maximum	Report	42 – 51	47
MW-7	Daily Maximum	Report	39 – 51	46

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

- i. pH – This licensing action is carrying forward the pH monitoring requirement from the previous licensing action.

pH – (DMRs=8)

Monitoring Well	Value	Limit (S.U.)	Range (S.U)
MW-2	Daily Maximum	Report	6.00 – 7.50
MW-7	Daily Maximum	Report	6.10 – 7.30

- j. Metals – This licensing action is carrying forward the totals metals monitoring requirements for monitoring wells from the previous licensing action. Results reported as “less than” (<) were considered present for calculation purposes. The Department reviewed the DMRs that were submitted for the reporting period from June 2012 – April 2017. A review of the data indicates the following:

Total Metals – MW-2

Parameter	Daily Max Limit(mg/L)	Result (ug/L)	DMRs
Arsenic	Report	0.005	1
Cadmium	Report	0.005	1
Copper	Report	0.01	1
Lead	Report	0.01	1
Nickel	Report	0.025	1
Zinc	Report	0.05	1

Total Metals – MW-7

Parameter	Daily Max Limit(mg/L)	Result (ug/L)	DMRs
Arsenic	Report	0.070	1
Cadmium	Report	0.351	1
Copper	Report	0.04	1
Lead	Report	0.01	1
Nickel	Report	0.09	1
Zinc	Report	0.194	1

6. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

7. SYSTEM CALIBRATION

Discharge rates, application rates and uniformity of application change over time as equipment gets older and components wear, or if the system is operated differently from the assumed design. Operating below design pressure greatly reduces the coverage diameter and application uniformity (resulting in increased ponding). For these reasons, the licensee should field calibrate their equipment on a regular basis to ensure proper application and uniformity, and when operating conditions are changed from the assumed design. Calibration involves collecting and measuring flow at several locations in the application area (typically a grid pattern of containers with uniform diameters). Rain gauges work best because they already have a graduated scale from which to read the application amount without having to perform additional calculations.

8. PUBLIC COMMENTS

Public notice of this application was made in the *Star Herald* on or about December 7, 2016. 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, 2011).

9. DEPARTMENT CONTACTS

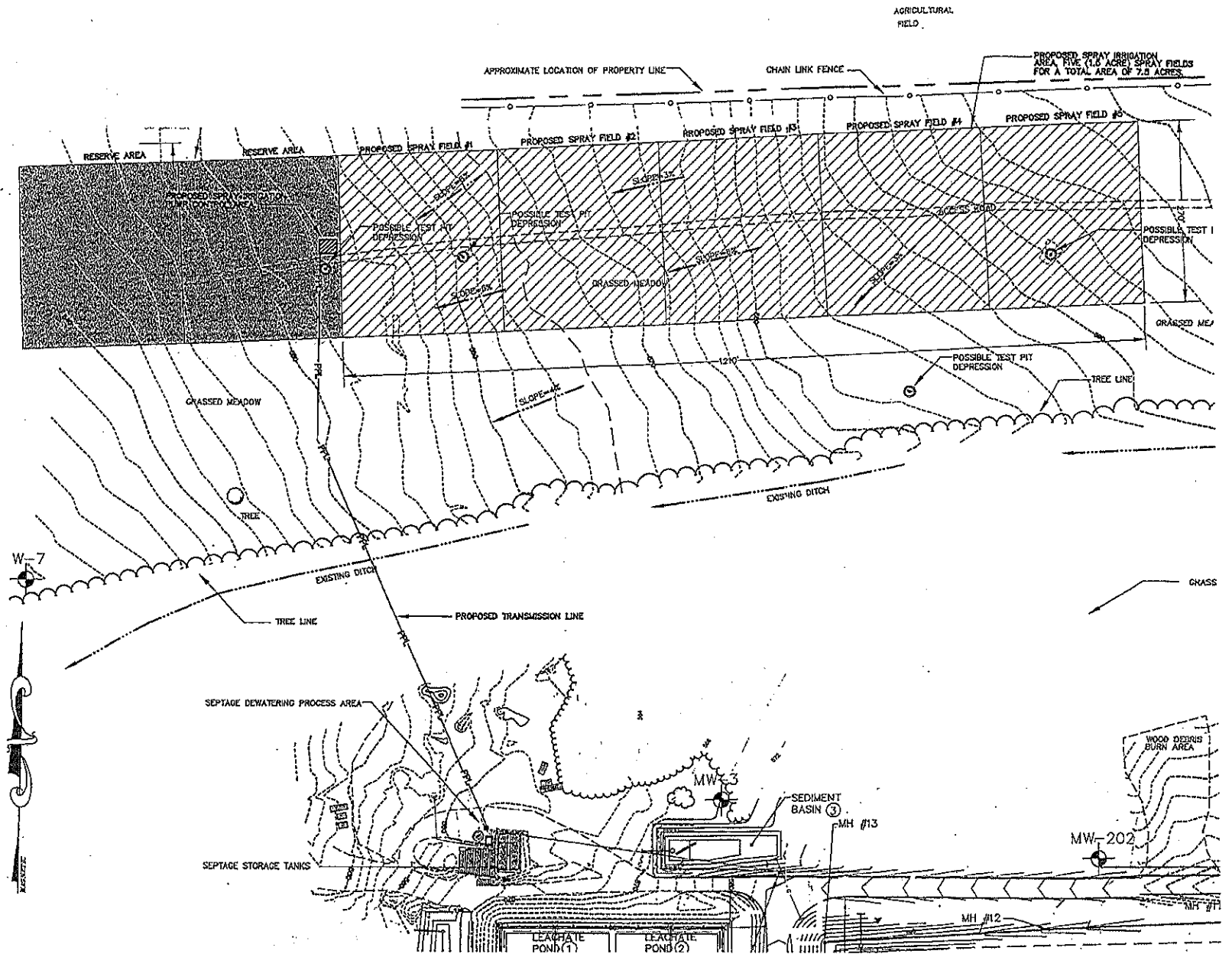
Additional information concerning this licensing action may be obtained from, and written comments sent to:

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

10. RESPONSE TO COMMENTS

During the period of July 17, 2017, through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. The Department did not receive any substantive comment on the draft permit. It is noted that minor typographical and grammatical errors identified in comments were not summarized in this section, but were corrected, where necessary, in the final permit.

ATTACHMENT A



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

A. GENERAL PROVISIONS

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

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

- (a) They are not
 - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
 - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

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

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

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

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

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

11. Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

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STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

5. Bypasses.

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

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

6. Upsets.

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

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C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Publicly owned treatment works.

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

E. OTHER REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner: (1) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by the Board's receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

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

The Board will formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P. 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

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

ADDITIONAL INFORMATION

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

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