



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



MELANIE LOYZIM  
ACTING COMMISSIONER

December 10, 2018

Adam West  
Jasper Wyman & Son  
P.O. Box 100  
Milbridge, ME 04658  
[Adam@Wymans.com](mailto:Adam@Wymans.com)

*Sent via electronic mail  
Delivery confirmation requested*

**RE: ICIS Tracking Number #MEU508269  
Maine Waste Discharge License (WDL) Application # W008269-5P-G-R  
Finalized License Renewal**

Dear Adam West:

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

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

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

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

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

Sincerely,

Aaron Dumont  
Division of Water Quality Management  
Bureau of Water Quality

Enc.

cc: Clarissa Trasko, DEP/EMRO, Lori Mitchell, DEP/CMRO, Marelyn Vega, USEPA,  
Richard Carvalho, USEPA Shelley Puleo, USEPA

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
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BANGOR, MAINE 04401  
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PORTLAND  
312 CANCO ROAD  
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PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143



DEPARTMENT ORDER

IN THE MATTER OF

JASPER WYMAN & SON	)	PROTECTION AND IMPROVEMENT
DEBLOIS, WASHINGTON COUNTY, ME	)	OF WATERS
BLUEBERRY PROCESSING	)	AND
MEU508269	)	WASTE DISCHARGE LICENSE
W008269-5P-G-R	)	RENEWAL
APPROVAL		

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 JASPER WYAMAN & SON (Licensee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On April 18, 2017, the Department accepted as complete for processing an application from the licensee for the renewal of a combined Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System Permit #W007847-5P-F-R/ ME0036919 which was issued by the Department on April 20, 2012, for a five-year term. The 4/20/2012 license authorized the operation of a surface wastewater disposal (spray-irrigation) system for discharge of blueberry processing wastewater via a surface wastewater disposal system to groundwater, Class GW-A.

The previous permitting action included limitations and monitoring frequencies for several outfalls from which treated stormwater runoff was discharged. The Department has determined that outfalls conveying stormwater runoff are covered under the Multi-Sector General Permit for Stormwater Associated with Industrial Activity. Therefore, this licensing action is only for wastewater discharged and applied to the licensed spray areas. Accordingly, the permit type has been changed from a combined WDL/MEPDES to a MEPDES Waste Discharge License and assigned WDL W008269-5P-G-R with and an Integrated Compliance Information System (ICIS) tracking number of MEU508269.

LICENSE SUMMARY

This licensing action is carrying forward all the terms and conditions of the previous permit permitting action except for the following:

- 1) Revises the weekly maximum flow for the site from 16.3 Million Gallons per Week to a weekly maximum flow of 3 million gallons per week. Correcting a technical error in the previous permitting action.
- 2) This licensing action establishes a 2/Month monitoring frequency for Lagoon Level Freeboard monitoring.
- 3) This licensing action is consolidating the seven, previously established spray areas (SA-A through SA-G) into three spray areas designated SF-A, SF-B and SF-C. The licensed application spray rate of 3.25 Inches/Acre/Week will remain the same. This will allow the facility to perform less monitoring and reporting while still maintaining the flexibility to dispose of the same volume of wastewater;

**LICENSE SUMMARY (cont'd)**

- 4) This licensing action is eliminating conditions and authorization for stormwater discharges. The licensee has already applied for coverage under the 2017 Multi-Sector General Permit Stormwater Discharge Associated with Industrial Activity;
- 5) Special Condition K, *Groundwater Monitoring Wells and Water Quality Monitoring Plan Details* has been amended to reflect the most current language;
- 6) This licensing action is eliminating the monitoring requirement for temperature, specific conductance, and pesticide monitoring in the storage lagoon effluent (Outfall #004A);
- 7) This licensing action eliminates the 2/Year pesticide monitoring requirement in Groundwater Monitoring Locations (#004C, #005, #006); and
- 8) Amends Special Condition M, *Pesticides*, to require monitoring for pesticides of concern during the fifth year of the license. To date, annual reports from blueberry growers as a whole, indicate pesticides of concern have not been detected as being present in storage tank/lagoon effluent or any of the groundwater monitoring wells.

**CONCLUSIONS**

Based on the findings summarized in the attached and incorporated Fact Sheet dated December 1, 2018, 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

**CONCLUSIONS (cont'd)**

- 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 discharge 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).

**ACTION**

THEREFORE, the Department APPROVES the above noted application of JASPER WYMAN & SON to discharge a maximum of 3 MILLION GALLONS PER WEEK of blueberry processing wastewater via a surface wastewater disposal system to groundwater, Class GW-A, in Deblois, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

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 June 9, 2018)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 6 DAY OF December 2018.

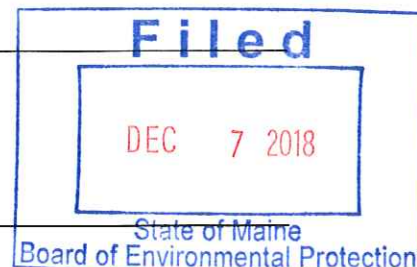
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:   
For MELANIE LOYZOM, Acting Commissioner

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

Date of initial receipt of application: April 18, 2017  
Date of application acceptance: April 18, 2017

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY



**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. Beginning the effective date of this license, the licensee is authorized to operate a surface wastewater treatment and disposal system. The **STORAGE LAGOON EFFLUENT**<sup>(1)(2)</sup> (**OUTFALL #004A**) must be limited and monitored as specified below:

<b>Parameter</b>	<b>Daily <u>Maximum</u> as specified</b>	<b>Measurement <u>Frequency</u> as specified</b>	<b>Sample <u>Type</u> as specified</b>
Lagoon Level Freeboard [82564]	Report feet [27]	2/Month <sup>(2)(3)</sup> [02/30]	Measure [MS]
Biochemical Oxygen Demand [00310]	Report mg/L [19]	1/Month <sup>(4)</sup> [01/30]	Grab [GR]
Nitrate-Nitrogen [00620]	Report mg/L [19]	1/Month <sup>(4)</sup> [01/30]	Grab [GR]
pH [00400]	Report S.U. [12]	1/Month <sup>(4)</sup> [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:** See Pages 7 – 8 of this license for applicable footnotes.

## SPECIAL CONDITIONS

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

2. The licensee is authorized to operate a surface wastewater treatment and disposal system consisting of the following three (3) spray irrigation areas: **SPRAY IRRIGATION AREAS (ICIS ID# SF-A, SF-B, and SF-C)**. The three spray irrigations areas must be limited and monitored as specified below<sup>(1)</sup>.

*Note: The size of the reconfigured spray fields are as follows: SF-A 4.11, SF-B 14.21, and SF-C 14.29*

April 15<sup>th</sup> – November 15<sup>th</sup>

Parameter	Monthly <u>Total</u> as specified	<u>Weekly</u> <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u>
Flow – Total Gallons <sup>(6)</sup> SF-A SF-B SF-C [51500]	Report, Gallons Report, Gallons Report, Gallons [57]	--- --- ---	1/Month 1/Month 1/Month [01/30]	Calculate Calculate Calculate [CA]
<u>Application Rate</u> <sup>(6)</sup> SF-A SF-B SA-C [51125]	--- --- ---	451,000 gal/week 1,254,000 gal/week 1,260,950 gal/week [8B]	1/Week 1/Week 1/Week [1/07]	Calculate Calculate Calculate [CA]

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. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. The licensee must monitor conditions in **GROUNDWATER MONITORING LOCATIONS (ICIS ID #004C, #005, #006)** for the following parameters as limited and specified below<sup>(1)</sup>

<b>Parameter</b>	<b>Daily <u>Maximum</u> As specified</b>	<b>Measurement <u>Frequency</u> as specified</b>	<b>Sample <u>Type</u> as specified</b>
Depth to Water Level Below Landsurface [72019]	Report (feet) [27]	3/Year <sup>(8)(9)</sup> [02/YR]	Measure [MS]
Nitrate-Nitrogen [00620]	10 (mg/L) [19]	2/Year <sup>(7)</sup> [02/YR]	Grab [GR]
Specific Conductance [00095]	Report (umhos/cm) [11]	2/Year <sup>(7)</sup> [02/YR]	Grab [GR]
Temperature (°F) [00010]	Report (°F) [15]	2/Year <sup>(7)</sup> [02/YR]	Grab [GR]
PH (Standard Units) [00400]	Report (S.U.) [12]	2/Year <sup>(7)</sup> [02/YR]	Grab [GR]
Total Suspended Solids [00530]	Report (mg/L) [19]	2/Year <sup>(7)</sup> [02/YR]	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.

## SPECIAL CONDITIONS

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

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

1. **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 publicly owned treatment works (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 discharge monitoring report (DMR).
2. **Lagoon Level Freeboard** – Lagoon freeboard must be measured 2/Month between **May 1 and October 31** of each year. The licensee must maintain the lagoon freeboard at design levels or at least two (2) feet, whichever is greater. For reporting on DMRs, report the minimum freeboard recorded for the storage lagoon. In the event that the freeboard level is 2 feet or less, the licensee must notify the Department's Compliance Inspector and consult for freeboard management and further recommendations.
3. **Lagoon Sampling** – Storage lagoon effluent must be sampled at a point in the lagoon furthest from the influent pipe or at a sampling port on the discharge pipe leading to the spray irrigation area, and must be representative of what is sprayed on the fields. Any change in sampling location must be approved by the Department in writing.
4. **Lagoon Sampling Period** – The licensee must conduct storage lagoon effluent sampling in the months of **May, August, and October** of each calendar year in accordance with Special Condition A Footnote #1 above. The licensee is not required to test for these parameters during a month when no wastewater was disposed of via the spray irrigation system.
5. **Weekly Application Rate** – A field's weekly application rate is the total gallons sprayed over the applicable period of time on the applicable spray-irrigation field. The licensee must measure the flow of wastewater to the irrigation area by the use of a flow measuring device that is checked for calibration at least once per calendar year. Weekly is defined as Sunday through Saturday.
6. **Weekly Maximum Reporting** – The licensee must report the highest weekly application rate for the week in the applicable box on the DMR/eDMR form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.



## **SPECIAL CONDITIONS**

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

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

7. **Groundwater Monitoring Period** – The licensee must conduct groundwater sampling in the months of **May and October** of each year. Sampling, handling and preservation must be conducted in accordance with Special Condition A Footnote #1 of this permit. Temperature and pH are considered to be “field” parameters, and are to be measured in the field via instrumentation. For purposes of this license, specific conductivity may be measured in the laboratory (normally a field parameter) as long as Department approved methods for handling and preservation of the sample are adhered to and analysis is performed in accordance with methods approved by 40 Code of Federal Regulations (CFR) Part 136. By definition the specific conductance sample must be temperature calibrated to 25°C.
8. **Groundwater Measurement** – Measured to the nearest one-tenth (1/10<sup>th</sup>) of a foot as referenced from where the ground surface contacts the well casing. Monitoring point 004C is excluded from this parameter as it is a groundwater seep.
9. **Water Level Depth Monitoring** – Depth to Water Level Below the Land Surface must be conducted in the months of **May, August and October** of each calendar year. Monitoring point 004C is excluded from this parameter as it is a groundwater seep.

### **B. NARRATIVE EFFLUENT LIMITATIONS**

1. The effluent must not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated for the classification of the receiving waters.
2. The effluent must not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.
3. The discharge must not cause visible discoloration or turbidity in the receiving waters, which would impair the usages designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this license the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

### **C. TREATMENT PLANT OPERATOR**

The person who has the management responsibility over the treatment facility must hold a **Maine Grade SITS-II** 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.

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## **SPECIAL CONDITIONS**

### **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.

### **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 April 18, 2017; 2) the terms and conditions of this license; and 3) only to the existing spray-irrigation fields (Fields SF-A, SF-B, and SF-C) and from those sources as indicated in the accepted Waste Discharge License Application dated 4/18/2017. 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 blueberry processing wastewater must receive treatment through a properly designed, operated and maintained screen and settling tank and lagoon system prior to land irrigation.
2. The spray irrigation facilities must be effectively maintained and operated at all times so that there is neither discharge to surface waters nor any contamination of groundwater which will render it unsatisfactory for usage as a public drinking water supply. Spray nozzles must be calibrated annually to assure proper spray irrigation rates.
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.

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## **SPECIAL CONDITIONS**

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

4. The Department must be notified as soon as the licensee becomes aware of any threat to public health, unlicensed discharge of wastewater, or any malfunction that threatens the proper operation of the system. Notification must be made in accordance with the attached Standard Condition #4 of this license.
5. The licensee must maintain a file on the location of all system components and relevant features. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells must be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports. Each component must be mapped and field located sufficiently to allow adequate inspections and monitoring by both the licensee and the Department.

### **G. SPRAY-IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS**

1. Suitable vegetative cover must be maintained. Wastewater (as liquid spray irrigation) must not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff outside the designated boundaries of the spray fields.
2. At least 10 inches of separation from the ground surface to the groundwater table must be present prior to spray irrigation.
3. No wastewater may be spray irrigated as liquid following a rainfall accumulation exceeding 1.0 inch within the previous 24-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 as spray irrigation (liquid) where there is snow present on the surface of the ground or when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
5. No traffic or equipment may be allowed in the spray-irrigation field area except where installation occurs or where normal operations and maintenance are performed (this includes forest management operations).
6. **Prior to the commencement of spray irrigation for the season (April 15 – November 15 of each year),** 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.
7. The licensee must install at least one groundwater level inspection well in each spray field to verify that 10 inches of separation from the ground surface to the observed groundwater level is present prior to spraying. Depths to groundwater must be recorded in accordance with the format of "*Monthly Operations Log*" provided as **Attachment A** of this license.

## **SPECIAL CONDITIONS**

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

8. 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 portion of the spray system and make necessary repairs before resuming operation. The licensee must cease irrigation on a spray field if runoff is observed outside the designated boundaries of that spray field.
9. **The licensee must maintain a daily log** of all spray irrigation operations which records the date, weather and soil conditions, rainfall, areas irrigated, volume sprayed (gallons), application rates (daily and weekly) 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 “*Monthly Operations Log*” and, “*Spray Application Report by Week*” for each month must be submitted to the Department as an attachment to the monthly Discharge Monitoring Reports (DMRs). Copies will also be maintained onsite for Department review and for license operation maintenance purposes.

### **H. VEGETATION MANAGEMENT**

1. The licensee must remove grasses and other vegetation such as shrubs and trees if necessary so as not to impair the operation of the spray-irrigation system, to ensure uniform distribution of wastewater over the desired application area and to optimize nutrient uptake and removal.
2. The vegetative buffer zones along the perimeter of the site must be maintained to maximize vegetation and forest canopy density to minimize off-site drift of spray.

### **I. LAGOON MAINTENANCE**

1. The banks of the lagoons must be inspected periodically during the operating season (at least two times per year) and properly maintained at all times. There must be no overflow through or over the banks. Any signs of leaks, destructive animal activity or soil erosion of the banks must be repaired immediately.
2. The banks of the lagoons must be maintained to keep them free of woody vegetation and other vegetation that may be detrimental to the integrity of the bank and/or lagoon liner. The lagoons must be kept free of all vegetation (*i.e.*, grasses, reeds, cattails, etc.) that hinders the operation of the lagoon.
3. For each lagoon, the licensee must maintain at least two (2) feet of freeboard or design levels, whichever is greater.
4. The treatment and storage lagoon must be dredged as necessary to maintain the proper operating depths in the lagoons that will provide best practicable treatment of the wastewater. All material removed from the lagoon(s) must be properly disposed of in accordance with all applicable State and Federal rules and regulations.

## **SPECIAL CONDITIONS**

### **J. 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, septic tanks, lagoons, spray apparatus, and pipes. At a minimum, the logs must include the unique identifier, the date of maintenance, type of maintenance performed, names or person performing the maintenance, and other relevant system observations.

### **K. GROUNDWATER MONITORING**

All monitoring wells must be equipped and maintained 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 by checking for the following: access and visibility, condition of locks and protective caps, presence of cracks, subsurface bentonite seal condition (unusual water quality, i.e., turbidity), condition of well screens and filter packs (changes in well performance, i.e., drop in yield), and evidence of vandalism or frost heaving. The Department reserves the right to require increasing the depth and/or relocating any of the groundwater monitoring wells if the well is perennially dry or is determined to not provide data representative of groundwater conditions.

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

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

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

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

## **SPECIAL CONDITIONS**

### **M. PESTICIDES**

**On or before December 31st [ICIS code 07099]** of each year the licensee must report to the Department any insecticides, fungicides, and herbicides (collectively referred to as pesticides) that have been used during the previous growing season. The Department, in conjunction with the Maine Department of Agriculture's Board of Pesticide Control, or other State and or federal agency/organization with expertise in pesticides will evaluate the information submitted. If a pesticide(s) of concern is identified, the Department will notify the licensee of additional pesticide monitoring that must be conducted in the ground water well(s) down gradient of the spray irrigation fields during the May monitoring period in the 5<sup>th</sup> year of the license cycle.

If deemed appropriate, sampling for pesticides in the ground water shall continue for as long as the parameter is detected at or above a State or federal (1) Maximum Exposure Guideline (MEG), (2) Action Level (AL), (3) Maximum Contamination Level (MCL) or (4) other scientifically-defensible critical thresholds established in literature.

### **N. 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 lagoon and spray irrigation sites 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.

### **O. MONITORING AND REPORTING**

#### Electronic Reporting

*NPDES Electronic Reporting*, 40 C.F.R. 127, requires MEPDES license 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 15<sup>th</sup> 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 15<sup>th</sup> day of the month following the completed reporting period.

## **SPECIAL CONDITIONS**

### **O. MONITORING AND REPORTING (cont'd)**

#### Non-electronic Reporting

If you have received a waiver from the Department concerning the USEPA electronic reporting rule, or are licensed 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 (13<sup>th</sup>) 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 (15<sup>th</sup>) 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  
Eastern Maine Regional Office  
Bureau of Water Quality  
Division of Water Quality Management  
106 Hogan Road  
Bangor, Maine 04401

### **P. 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.

### **Q. 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

Jasper Wyman & Son (WDL #W007847)

(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						
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27						
28						
29						
30						
31						

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



# Attachment B

## Spray Application Report by Week

Jasper Wyman & Son (WDL #W007847) (Month/Year) \_\_\_\_\_

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

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

# **MAINE WASTE DISCHARGE LICENSE**

## **FACT SHEET**

**DATE:** **December 1, 2018**

**COMPLIANCE TRACKING NUMBER:** **MEU508269**

**WASTE DISCHARGE LICENSE:** **W008269-5P-G-R**

**NAME AND ADDRESS OF APPLICANT:**

**JASPER WYMAN & SON  
P.O. BOX 100  
MILBRIDGE, MAINE 04658**

**COUNTY:** **WASHINGTON COUNTY**

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

**JASPER WYMAN & SON  
601 ROUTE 193  
DEBLOIS, MAINE 04622**

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

**COGNIZANT OFFICIAL CONTACT INFORMATION:**

**MR. ADAM WEST  
OPERATIONS MANAGER  
(207)-546-3381**

## **1. APPLICATION SUMMARY**

On April 18, 2017, the Department of Environmental Protection (Department) accepted as complete for processing an application from the licensee (Jasper Wyman & Son) for the renewal of a combined Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System Permit #W007847-5P-F-R/ME0036919 which was issued by the Department on April 20, 2012, for a five-year term. The 4/20/2012 license authorized the operation of a surface wastewater disposal (spray-irrigation) system for discharge of blueberry processing wastewater via a surface wastewater disposal system to groundwater, Class GW-A.

The previous permitting action included limitations and monitoring frequencies for several outfalls from which treated stormwater runoff was discharged. The Department has determined that outfalls conveying stormwater runoff are covered under the Multi-Sector General Permit for Stormwater Associated with Industrial Activity. Therefore, this licensing action is only for wastewater discharged and applied to the licensed spray areas. Accordingly, the permit type has been changed from a combined WDL/MEPDES to a MEPDES Waste Discharge License and assigned WDL W008269-5P-G-R with and an Integrated Compliance Information System (ICIS) tracking number of MEU508269.

## 2. LICENSE SUMMARY

- a. Terms and Conditions: This licensing action is carrying forward all the terms and conditions of the previous permit permitting action except for the following:
- 1) Revises the weekly maximum flow for the site from 16.3 Million Gallons per Week to a weekly maximum flow of 3 million gallons per week. Correcting a technical error in the previous permitting action;
  - 2) This licensing action establishes a 2/Month monitoring frequency for Lagoon Level Freeboard monitoring;
  - 3) This licensing action is consolidating the seven, previously established spray areas (SA-A through SA-G) into three spray areas designated SF-A, SF-B and SF-C. The licensed application spray rate Inches/Acre/Week will remain the same. This will allow the facility to perform less monitoring and reporting while still maintaining the flexibility to dispose of the same volume of wastewater;
  - 4) This licensing action is eliminating conditions and authorization for stormwater discharges. The licensee has already applied for coverage under the 2017 Multi-Sector General Permit Stormwater Discharge Associated with Industrial Activity;
  - 5) Special Condition K. *Groundwater Monitoring Wells and Water Quality Monitoring Plan Details* has been amended to reflect the most current language;
  - 6) This licensing action is eliminating the monitoring requirement for temperature, specific conductance, and pesticide monitoring in the storage lagoon effluent (Outfall #004A);
  - 7) This licensing action eliminates the 2/Year pesticide monitoring requirement in Groundwater Monitoring Locations (#004C, #005, #006); and
  - 8) Establishes Special Condition M, *Pesticides*, to require monitoring for pesticides of concern during the fifth year of the license. To date, annual reports from blueberry growers as a whole, indicate pesticides of concern have not been detected as being present in storage tank/lagoon effluent or any of the groundwater monitoring wells.
- b. History: This section provides a summary of significant licensing actions and milestones that have been completed for the licensee.

December 31, 2001 – The Department issued WDL # W007847-5O-B-R to the licensee for a five-year term. The 12/31/01 WDL, which expired on December 31, 2006, superseded previous WDLs issued on July 15, 1994, November 14, 1989, and March 17, 1987.

October 11, 2005 – The Department issued the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity, WDL #W008227-5Y-A-N, for a five-year term. The MEPDES General Permit superseded the USEPA Multi-Sector General Permit for Maine, which expired on October 30, 2005.

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## 2. LICENSE SUMMARY (cont'd)

December 20, 2005 – The licensee notified the Department that it intended to seek coverage for the discharge of storm water from the Deblois facility through an individual MEPDES permit. On January 9, 2006, the Department notified the licensee that coverage for storm water discharges could be provided through modification of the 12/31/01 WDL.

March 19, 2007 – The Department issued combination MEPDES permit #ME0036919/ WDL #W007847-5O-C-R to the licensee for the discharge of blueberry processing wastewater via a surface wastewater disposal system (via two spray irrigation fields), as well as the discharge of storm water to Great Falls Branch, Class A, in Deblois, Maine. The 3/19/07 permit is scheduled to expire on March 19, 2012.

March 12, 2008 – The Department issued permit modification WDL #W007847-5O-D-M /MEPDES permit #ME0036919 to the licensee's 3/19/07 permit, authorizing the discharge of an additional 35,000 gallons per day of blueberry processing wastewater and expanding the number of spray irrigation fields from two (2) to seven (7) as a result of the proposed expansion of the blueberry processing facility.

August 16, 2010 – The Department issued permit modification WDL #W007847-5O-E-M/MEPDES permit #ME0036919 to the licensee's 3/19/07 permit, authorizing an increase in discharge from 148,000 gallons per day to 333,000 gallons per day of blueberry processing wastewater and the expansion of the seven (7) spray irrigation areas from a total of 24.98 acres to 28.05 acres.

April 20, 2012 – The Department issued combination MEPDES permit #ME0036919/ WDL #W007847-5P-F-R to the licensee for the discharge of blueberry processing wastewater via a surface wastewater disposal system (via two spray irrigation fields), as well as the discharge of storm water to Great Falls Branch, Class A, in Deblois, Maine.

April 18, 2017 – The licensee submitted a timely and complete general application to the Department for renewal of the April 20, 2012 WDL. The application was accepted for processing on April 18, 2017 and was assigned WDL #W008269. It is noted that the Department has assigned the application compliance tracking number #MEU508269 for administrative purposes.

April 22, 2017 – The Department issued a Multi-Sector General Permit Associate with Industrial Activity (MSGP) to Jasper Wyman, and was given a MSGP number of MER06C245.

- c. Source Description: The Jasper Wyman & Son processing facility in Deblois, Maine is a blueberry and cranberry processing facility. Raw product is harvested, received at the facility, cleaned and flash frozen through freezing tunnels, packaged, and labeled. Frozen blueberries are also stored in bulk and packaged for retail sale later. Cranberries are processed for approximately three weeks of the year during the months of October and November. The facility is located on State Route 193 adjacent to the West Blueberry Barren in Deblois. A site location map showing the location of the facility is included as **Attachment A** of this Fact Sheet. The facility processes an average of 850,000 pounds per day of blueberries for a 10- to 13-week period during the months of July, August and September of each year. During 2011, a 640-square foot structure was constructed to house the screening/separator equipment located beside the wastewater storage lagoon.

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## 2. LICENSE SUMMARY (cont'd)

The structure is completely enclosed and is heated during the winter months. In 2011 the licensee began processing “reruns” during the months of November – June. The wastewater produced during these months will be pumped to the wastewater storage lagoon and will be held there until spring. The licensee estimates that 2,000 gallons per day will be pump to the lagoon during these months. A total of approximately 40 million pounds of blueberries are processed at the facility each year.

The licensee utilizes groundwater and surface water from an irrigation pond for processing operations at the facility. Process wastewater is generated from three blueberry processing lines (referred to as Processing Lines #2, #3 and #7). The processing lines incorporate a wastewater minimization /recycling program. Wastewater consists of blueberry wash water, spillage and clean-up water, pre-freezer dewatering decant, freezer defrost water, freezer condensate water, blueberry field container wash water, and processing equipment wash water. A typical water use schematic is included as Fact Sheet **Attachment B**.

- d. Wastewater Treatment: All wastewater from the fresh and frozen processing areas is discharged to the wastewater treatment system. The process wastewater is generated from three blueberry processing lines (Lines 2, 3, and 7) Lines 2, and 3 are collected in a 5,000 gallon sumps and line 7 is collected in a 10,000 gallon sumps (one for each processing line) and then pumped through a solids separator to a 1.5-million-gallon wastewater storage lagoon via subsurface piping. The lagoon measures approximately 300 feet long by 180 feet wide with a mean depth of 5 feet, a maximum depth of 7 feet, with a 2-foot thick clay liner. The average retention time in the lagoon during the processing season is 10.1 days. As lagoon level requires, wastewater is pumped through SDR 17 HDPE that have been installed underground and lead to the spray irrigation fields with a combined area of 28.05 acres.
- e. Spray Area Site Conditions: A Class A High Intensity Soil Survey of spray site #1 was conducted by Stephen Howell, a Certified Soil Scientist with CES 1989. The spray site is composed of Adams soils with 8 to 12 inches of fine sandy loam and sandy loam over loamy sand with slopes ranging from 0 to 6 percent. The site occurs on a broad outwash plain of coarse-grained glaciomarine deposits on an area mapped as a significant sand and gravel aquifer by the Maine Geologic Survey. Mr. Howell hypothesized that the site’s loamy surface reduces soil infiltration and permeability in the upper 8 to 12 inches and may reduce the significance of the soil as an aquifer. The site is currently a grassy field.

A Class B High Intensity Soil Survey of spray site #2 was conducted by Paul Corey, a Certified Soil Scientist with S.W. Cole Engineering, Inc., in 1994. The spray site is comprised of Adams soils that are nearly level to gently sloping with slopes ranging from 0 to 8 percent. Permeability in the Adams series is typically in the range of 6 to 20 inches per hour throughout the soil profile. However, due to the sandy loam texture of the surface and upper subsoil, permeability in the upper 15 inches of the site soil is in the range of 2 to 6 inches. This upper soil layer will increase the attenuation time of the wastewater within the most biologically and chemically active portion of the soil, thereby increasing the treatment of the wastewater. The site is a field with herbaceous stage vegetation, devoid of higher vegetative strata.

## 2. LICENSE SUMMARY (cont'd)

A Class B High Intensity Soil Survey for a proposed expansion of an existing spray field was conducted by CES, Incorporated, in 2007. The site conditions and soil map units were found to be consistent with those previously mapped.

- f. Sanitary Wastewater: Sanitary wastewater generated at the facility is disposed of in accordance with the Maine Department of Health and Human Services' *Subsurface Wastewater Disposal Rules*. The licensee has not applied to the Department for the discharge of sanitary wastewaters.

## 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 water. *Standards of Classification of Ground Water*, 38 M.R.S., Section 465-C(1), describes the standards for water 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

### Blueberry Process Wastewaters and Groundwater Monitoring

The Department has established lagoon effluent, spray irrigation, and groundwater monitoring parameters to provide consistency across similar facilities now licensed by the Department. To be consistent with other similar licenses, groundwater sampling is required in May and October.

Slow-rate land irrigation treatment is an environmentally sound and appropriate technology for best practicable treatment and disposal of wastewater. The theory behind surface wastewater disposal systems is to utilize the top 10-12 inches of organic matter and in-situ soils to attenuate the pollutant loadings in the applied wastewater. The soils and vegetation within the spray field area will provide adequate filtration and absorption to preserve the integrity of the soil, and both surface and groundwater quality in the area.

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

The licensee must periodically monitor the lagoon effluent, spray irrigation fields, and groundwater monitoring locations on site at the specified frequencies and locations as called for in Special Condition A of this permit.

- a. Spray Irrigation Application Rate: This licensing action is carrying forward the weekly maximum spray irrigation application rate of 2.33 million gallons per week per spray field (333,000 gallons per day per field) from the previous licensing action (permit modification dated 8/16/10). The weekly limit is based on the characteristics of in-situ soils and provides protection against hydraulically overloading and preventing runoff from the spray irrigation area.
- b. Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS): BOD5 is the rate at which organisms use the oxygen in wastewater while stabilizing decomposable organic matter under aerobic conditions. BOD5 measurements indicate the organic strength of wastes in water. Monitoring for BOD5 yields an indication of the effectiveness of the lagoon treatment process and the condition of the wastewater being applied. TSS monitoring consists of both settleable and non-settleable solid materials. Monitoring for TSS is used in groundwater monitoring to verify the integrity of the monitoring wells.
- c. pH: The daily maximum pH limit of 6.0 – 8.5 standard units is a best practicable treatment standard incorporated into similar waste discharge licenses issued by the Department. pH is considered a “field” parameter meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential groundwater contamination.
- d. Specific Conductance: Specific conductance is considered a “field” parameter, meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential groundwater or surface water contamination.
- e. Depth to Water Level Below Land Surface: Measuring the distance from the ground level to the groundwater surface in monitoring wells will be used to monitor representative groundwater conditions.
- f. Temperature: Temperature is considered a “field” parameter, meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential groundwater contamination and is being utilized to calibrate specific conductance values.
- g. Nitrate-nitrogen: Nitrogen assumes different forms depending upon the oxidation-reduction conditions in the soil and groundwater. The presence of a particular form of nitrogen indicates the nutrient attenuation capacity of the spray site. Nitrogen compounds can indicate human health concerns if elevated in a drinking water supply. The 10 mg/L limit for nitrate nitrogen in monitoring wells is based on state and federal drinking water standards.

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

h. Insecticides, Fungicides, Herbicides: Farmers may utilize herbicides (terbacil, BAM [dichlobenil]), fungicides (propiconazole, boscalid), and pesticides on the crop at various times during berry-producing years. Based on varying persistence of these chemicals in water and soil, in consideration of preharvest time of application requirements, and based on the concentration of these chemicals in facility wastewater, the Maine Board of Pesticide Control has recommended that levels of each of these chemicals be monitored in lagoon effluent, and groundwater monitoring locations, as documented below. This permitting action establishes monitoring during the fifth year of the license for pesticides of concern. To date, annual reports from blueberry growers as a whole, indicates pesticides of concern have not been detected as being present in storage tank/lagoon effluent or any of the groundwater monitoring wells.

### i. Groundwater Monitoring Wells:

A summary of groundwater monitoring well results for the monitoring period of April 20, 2012 – November 16, 2017 is as follows:

#### **Nitrate-Nitrogen**

Monitoring Well	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs
MW-004C	10 mg/L	< 0.5 – 1.30	<0.9	2
MW-005	10 mg/L	<0.5 – 0.5	<0.5	11
MW-006	10 mg/L	<0.5 – 0.5	<0.5	11

This licensing action is carrying forward the daily maximum concentration limit of 10 mg/L for groundwater monitoring wells and the minimum monitoring frequency requirement of twice per year during the months of April – November.

#### **Depth to Water Level Below Landsurface**

Monitoring Well	Limit (feet)	Range (Feet)	Average (Feet)	Number of DMRs
MW-004C	Report	No data	No data	0
MW-005	Report	19 – 22	20	17
MW-006	Report	15 – 17	16	17

This licensing action is carrying forward the monitoring requirements for depth to water level below landsurface from the previous licensing action.

#### **Specific Conductance**

Monitoring Well	Limit (umhos/cm)	Range (umhos/cm)	Average (umhos/cm)	Number of DMRs
MW-004C	Report	51 – 73	62	2
MW-005	Report	32 – 164	86	11
MW-006	Report	38 – 100	66	11



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

This licensing action is carrying forward the monitoring requirements for specific conductance from the previous permitting action.

### Temperature

Monitoring Well	Limit (Deg F)	Range (Deg F)	Average (Deg F)	Number of DMRs
MW-004C	Report	48 – 55	51	2
MW-005	Report	47 – 55	50	11
MW-006	Report	46 – 52	49	11

This licensing action is carrying forward the monitoring requirements for temperature from the previous permitting action.

### pH

Monitoring Well	Limit (S.U.)	Range (S.U.)	Number of DMRs
MW-004C	Report	6.8 – 7.2	2
MW-005	Report	4.8 – 7.4	11
MW-006	Report	5.8 – 7.2	11

This licensing action is carrying forward the monitoring requirements for pH from the previous licensing action.

A summary of groundwater monitoring well results for the period April 20, 2012 – November 16, 2017 is as follows:

### Total Suspended Solids

Monitoring Well	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs
MW-004C	Report	15 – 18	16.5	2
MW-005	Report	<2.50 – <2.50	<2.50	11
MW-006	Report	<2.50 – <2.50	<2.50	11

Results reported as “less than” (<) were considered present at the detection limits for calculation purposes. This licensing action is carrying forward the TSS monitoring requirements from the previous permitting action.

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

### **Pesticides Monitoring – No data.**

<b>Monitoring Well</b>	<b>Limit (ug/L)</b>	<b>Range (ug/L)</b>	<b>Average (ug/L)</b>	<b>Number of DMRs</b>
MW-004C	Report	N/A	N/A	N/A
MW-005	Report	N/A	N/A	N/A
MW-006	Report	N/A	N/A	N/A

This licensing action establishes monitoring requirements for pesticides monitoring during the fifth year from the previous permitting action.

### j. **Storage Lagoon Effluent (004A)**

#### **Temperature**

<b>Value</b>	<b>Limit (Deg/F)</b>	<b>Range (Deg/F)</b>	<b>Mean (Deg/F)</b>	<b>Number of DMRs</b>
Daily Maximum	Report	54 – 68	58	10

This licensing action is carrying forward the specific conductance monitoring requirements from the previous permitting action.

#### **Lagoon Level Freeboard**

<b>Value</b>	<b>Limit (Feet)</b>	<b>Range (Feet)</b>	<b>Mean (Feet)</b>	<b>Number of DMRs</b>
Daily Maximum	Report	1.1 – 5.1	2.75	31

This previous licensing action established a lagoon level freeboard limit of 2 feet and monitoring requirements of 1/week. This licensing action is carrying forward the lagoon level freeboard limit of 2 feet and establishes a monitoring frequency of 2/month.

#### **Nitrate-Nitrogen**

<b>Value</b>	<b>Limit (mg/L)</b>	<b>Range (mg/L)</b>	<b>Mean (mg/L)</b>	<b>Number of DMRs</b>
Daily Maximum	Report	<0.05 – 0.3	0.12	9

Results reported as “less than” (<) were considered present at the detection limits for calculation purposes. This licensing action is carrying forward the nitrate-nitrogen monitoring requirements from the previous permitting action.

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

### Specific Conductance

Value	Limit (umhos/cm)	Range (umhos/cm)	Mean (umhos/cm)	Number of DMRs
Daily Maximum	Report	101 – 379	272	10

This licensing action is carrying forward the specific conductance monitoring requirements from the previous permitting action.

### BOD

Value	Limit (Mg/L)	Range (Mg/L)	Mean (Mg/L)	Number of DMRs
Daily Maximum	Report	7.6 – 2,100	825	9

This licensing action is carrying forward the report only BOD monitoring requirements from the previous permitting action.

### pH

Value	Limit (S.U.)	Range (S.U.)	Number of DMRs
Daily Maximum	Report	3.8 – 6.5	10

This licensing action is carrying forward the pH monitoring requirements from the previous permitting action.

### Pesticides Monitoring

Value	Limit (ug/L)	Range (ug/L)	Average (ug/L)	Number of DMRs
MW-004A	Report	<1.00 – 1.00	1.00	4

This licensing action is carrying forward the monitoring requirements for pesticides monitoring from the previous permitting action.

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

### k. Spray-Irrigation Areas (SA-A, SA-B, SA-C, SA-D, SA-E, SA-F, and SA-G)

A summary of the spray-irrigation area monitoring results for the period from April 20, 2012 – November 16, 2017 is as follows:

#### Application Rate

Spray Area	Range (gal/week)	Average (gal/week)	Number of DMRs
SA-A	68,580 – 483,000	246,926	23
SA-B	149,385 – 355,110	250,045	19
SA-C	100,080 – 538,200	256,316	25
SA-D	107,760 – 345,040	249,354	16
SA-E	109,440 – 611,760	272,373	19
SA-F	103,920 – 402,550	248,606	21
SA-G	104,880 – 517,000	266,716	18

This licensing action is amending the current seven spray field configuration down to three, and carrying forward the maximum spray-irrigation application rate of 2,331,000 gallons/week, and 3.25inches/Acre/Week.

#### Flow

Spray Area	Monthly Total (gallons)	Range (gallons)	Average (gallons)	Number of DMRs
SA-A	Report	68,580 – 1,320,600	472,207	23
SA-B	Report	162,360 – 1,038,960	429,870	19
SA-C	Report	107,280 – 1,429,948	494,092	25
SA-D	Report	107,760 – 1,116,720	402,932	16
SA-E	Report	109,440 – 1,234,490	541,839	20
SA-F	Report	108,000 – 1,256,771	517,161	22
SA-G	Report	104,880 – 1,408,320	570,778	18

This licensing action is consolidating the seven, previously established spray areas (SA-A through SA-G) into three spray areas designated SF-A, SF-B and SF-C. The licensed application spray rate Inches/Acre/Week will remain the same.

## 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. PUBLIC COMMENTS**

Public notice of this application was made in *Bangor Daily News* newspaper on or about April 5, 2017. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## **8. DEPARTMENT CONTACTS**

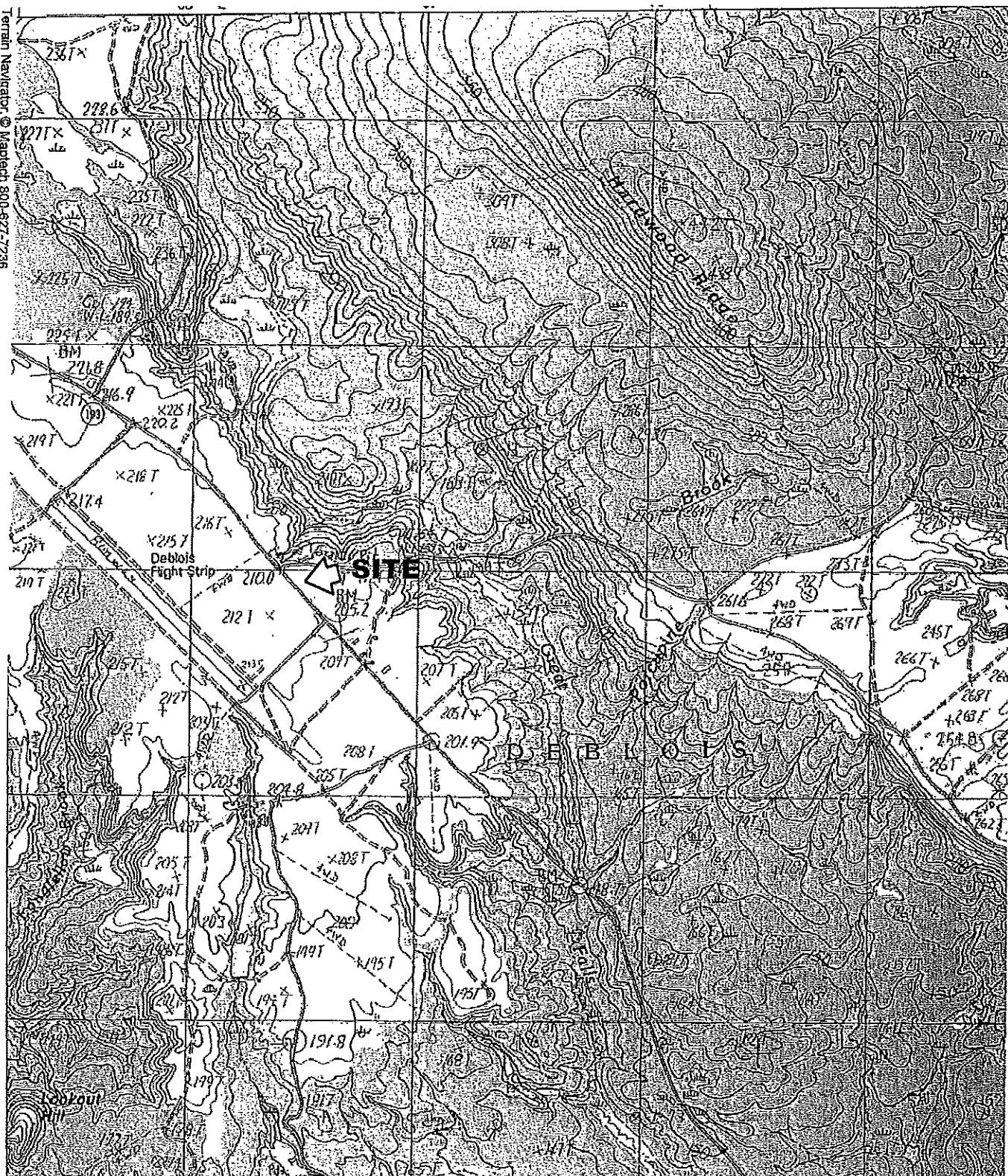
Additional information concerning this licensing action may be obtained from, and written comments sent to:

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](mailto:Aaron.A.Dumont@maine.gov)

## **9. RESPONSE TO COMMENTS**

During the period of October 10, 2018, through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. The Department did not receive any substantive comment on the draft permit. 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**



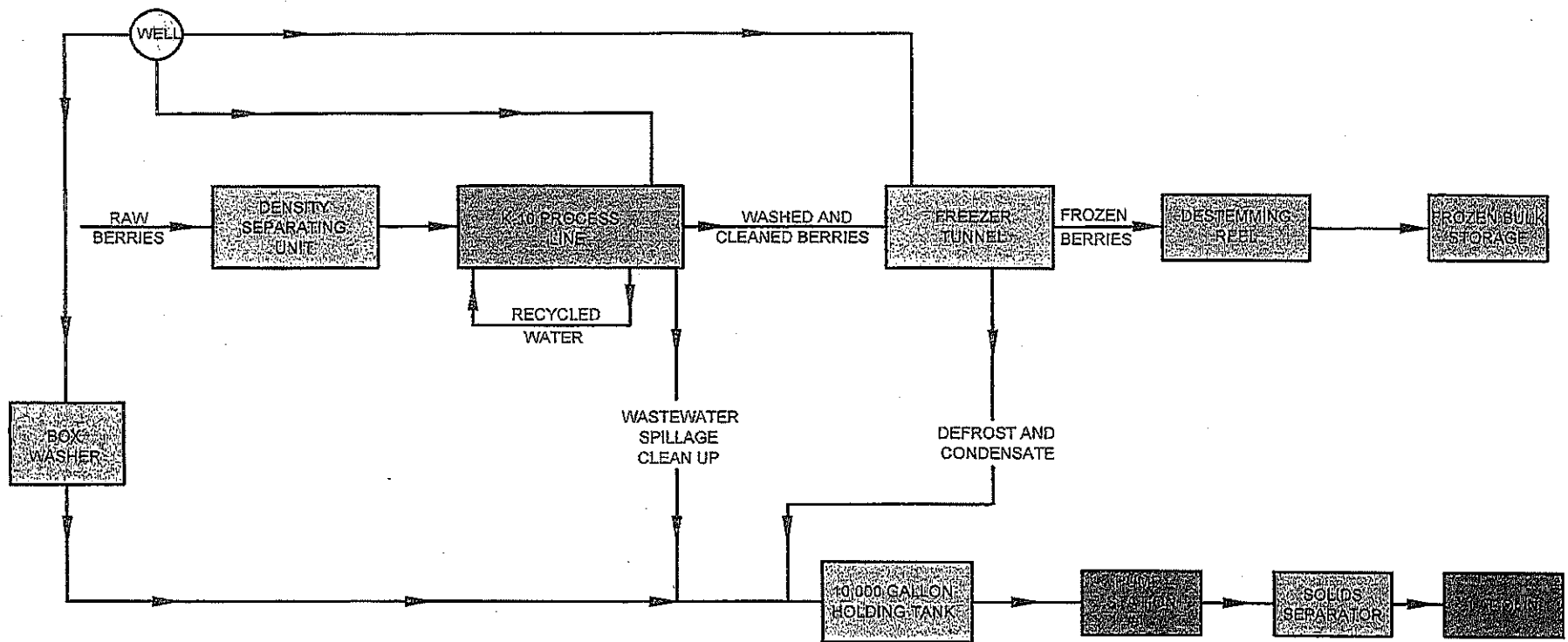
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@ 1:24,000  
UTM COORDINATES  
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1904679.24 E

**CES INC**  
**JASPER WYMAN AND SON, INC.**  
**ROUTE 193, DEBLOIS, MAINE**  
**LOCATION MAP**

3/1/2011  
949.12

## **ATTACHMENT B**





**JASPER WYMAN AND SON, INC.**  
**DEBLOIS FACILITY - DEBLOIS, MAINE**  
**WATER USE SCHEMATIC LINE #1**

BY: BH	DWG:
DATE: 1/4/2012	
REV:	JN: 949.12
REV DATE:	SCALE: NTS



## **ATTACHMENT C**







MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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CONTENTS

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# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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### A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

#### **B. OPERATION AND MAINTENANCE OF FACILITIES**

##### **1. General facility requirements.**

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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

#### **5. Bypasses.**

##### (a) Definitions.

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

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

##### (c) Notice.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

**6. Upsets.**

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



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**C. MONITORING AND RECORDS**

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

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

**3. Monitoring and records.**

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

- (g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.
- (h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

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

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

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

- (a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (i) One hundred micrograms per liter (100 ug/l);
  - (ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

#### 5. Publicly owned treatment works.

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

#### E. OTHER REQUIREMENTS

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

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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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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.

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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

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

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

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

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

**Maximum daily discharge limitation** means the highest allowable daily discharge.

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

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

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

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

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

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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.

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

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