



STATE OF MAINE
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PAUL MERCER
COMMISSIONER

May 9, 2018

Mr. Robert Peabody
3 Chase Street, Suite 1
Bridgton, Maine 04009
townmgr@bridgtonmaine.com

**RE: Maine Waste Discharge License (WDL) Application #W007879-6B-F-R
License Renewal**

Dear Mr. Peabody:

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

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

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!

If you have any questions regarding the matter, please feel free to call me at 207-446-1875.

Sincerely,

Rodney Robert
Division of Water Quality Management
Bureau of Water Quality

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

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
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312 CANCO ROAD
PORTLAND, MAINE 04103
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PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143



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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF BRIDGTON)	PROTECTION AND IMPROVEMENT
BRIDGTON, CUMBERLAND COUNTY, MAINE)	OF WATERS
PUBLICLY OWNED TREATMENT WORKS)	
SUBSURFACE WASTEWATER DISPOSAL)	WASTE DISCHARGE LICENSE
MEU507879)	
W007879-6B-F-R)	
APPROVAL)	RENEWAL

In compliance with the provisions of *Conditions of licenses*, 38 M.R.S. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the TOWN OF BRIDGTON (Town/licensee hereinafter) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The licensee has submitted a timely and complete application to the Department for the renewal of Waste Discharge License (WDL) #W007879-6B-E-R / Permit Compliance System (PCS) tracking #MEU507879, which was issued by the Department on June 26, 2012, for a five-year term. The 6/26/12 WDL authorized the discharge of 30,800 gallons per day (gpd) of treated sanitary wastewater from a series of two sub-surface wastewater disposal systems to the groundwater, Class GW-A, in Bridgton, Maine.

LICENSE SUMMARY

This license carries forward all the terms and conditions of the previous license.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated April 18, 2018 and subject to the Conditions listed below, the Department makes the following conclusions:

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

ACTION

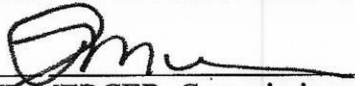
THEREFORE, the Department APPROVES the above noted application of the TOWN OF BRIDGTON, to discharge 30,800 gpd of treated sanitary wastewater to groundwater, Class GW-A, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

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

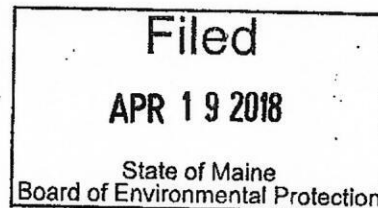
PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 19th DAY OF April 2018.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
PAUL MERCER, Commissioner

Date of initial receipt of application 12/27/17
Date of application acceptance 1/2/18



Date filed with Board of Environmental Protection _____.

This Order prepared by Rod Robert, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. TREATMENT PLANT OPERATOR

The treatment facility must be operated by a person holding a minimum of a **Maine Grade I** certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Sewage Treatment Operators*, 32 M.R.S. § 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the licensee may engage the services of the contract operator.

B. AUTHORIZED DISCHARGES

The licensee is authorized to discharge treated sanitary wastewater only in accordance with the terms and conditions of this license and only from the existing subsurface system as designed. Discharge of wastewater from any other source or expected flows in excess of design capacity requires a formal modification of this license.

Also, the collection, treatment or discharge of wastewater from commercial, industrial or residential sources, which has constituents unlike that or is significantly higher strength than that of domestic wastewater, is prohibited without formal modification of the license.

C. DISPOSAL OF TRANSPORTED WASTE IN WASTEWATER TREATMENT FACILITY

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

D. NARRATIVE EFFLUENT LIMITATIONS

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

SPECIAL CONDITIONS

E. GENERAL OPERATIONAL CONSTRAINTS

1. The licensee must operate the system consistent with the requirements of the *Maine Subsurface Wastewater Disposal Rules* (144A CMR 241 authorized under Title 22 MRS §42) and other pertinent regulations, as well as the limitations of the design.
2. The licensee is responsible for proper operation and maintenance of the subsurface wastewater system in order to facilitate groundwater protection, including the education of system users in the proper use of the system.
3. The Department must be notified as soon as the licensee becomes aware of any threat to public health, unlicensed discharge of wastewater, sanitary system overflows (SSO's), or any malfunction that threatens the proper operation of the system, and of action taken to repair/correct, and prevent recurrence. Notification must be made in accordance with the attached Standard Conditions attached to this license.

An SSO is the release of raw sewage from a sanitary collection system prior to reaching the treatment plant or facility (spills out of manholes, into basements, onto municipal property, etc, and into waters of the United States are all considered to be SSOs).

4. All upgrades, replacements or authorized expansions of the treatment systems must be in accordance with *Maine Subsurface Wastewater Disposal Rules* and be approved by the Department.

DEP authorized upgrades, replacements, expansions of systems with a design flow of less than 2000 gallons per day must be under the direction of a Site Evaluator licensed in Maine. Upgrades, replacements, and authorized expansions of systems with a design flows greater than 2000 gallons per day must be under the direction of both a Site Evaluator and Professional Engineer.

5. The licensee must maintain a file on the location of all system components and relevant features. Each component must be mapped and field located sufficiently to allow adequate inspections and monitoring by both the licensee and the Department. Septic tanks and distribution box covers must be accessible for inspections and pumping. Risers must be installed as necessary.
6. All system components including collection pipes, tanks, distribution boxes, pumps, pumping stations, disposal fields, and manholes must be identified and referenced by a unique system identifier in all logs and reports.

SPECIAL CONDITIONS

F. OPERATIONAL REQUIREMENTS

It must be the responsibility of the licensee to ensure that:

1. Roof drains and foundation drains are not connected to the system.
2. Occurrences of excessive inflow and infiltration are corrected immediately.
3. Garbage disposal systems are not connected to the system unless specific measures have been taken to accommodate the increased loading to the system.
4. Backwash from home water softeners are not connected to the system.
5. Ponding of surface water over the disposal field does not occur and all sources of surface water are diverted away from the fields.
6. Driving or parking over any part of the system is prohibited, except in cases where weight-bearing components (H-20) have been installed and approved for use in the design.
7. Covering the disposal field with a hard surface such as concrete or asphalt is prohibited.
8. The field is kept free of woody vegetation and the digging or planting of anything other than grass or other similar herbaceous plants is prohibited.
9. Stockpiling of snow or soil on the disposal field is prohibited.

G. SEPTIC TANKS

1. All septic tanks must be watertight and tanks must be constructed of materials approved by the Department and in accordance with the *Maine Subsurface Wastewater Disposal Rules*. Metal septic tanks are prohibited.
2. Inlet and outlet connections of each septic tank or compartment must be designed to obtain effective retention of scum and sludge. All connections and baffles must be fastened with and constructed of, or coated with, materials that are resistant to corrosion.

SPECIAL CONDITIONS

G. SEPTIC TANKS (cont'd)

3. Septic tanks and other treatment tanks must be regularly inspected (as specified in Special Condition I) and maintained to ensure that they are providing best practicable treatment.
4. Tank contents must be removed whenever the sludge and scum occupies one-third of the tank's liquid capacity or whenever levels approach maximum design capacity.

H. GREASE TRAPS

1. The licensee must require any commercial or institutional food preparation facility such as a restaurant, cafeteria, or institutional kitchen to install an external grease interceptor in accordance with the *Maine Subsurface Wastewater Disposal Rules*.
2. Grease interceptors serving year round facilities must be inspected by the licensee at least three times per year and seasonal facilities must be inspected at least twice per year to determine the volume of grease present. Tanks must be cleaned when the volume of grease equals more than 50% of the liquid capacity of the tank or at any level that impairs the proper function of the unit.

I. LICENSEE INSPECTIONS

1. All inspections must include an evaluation of any repair, upgrades, pumping, operational and/or maintenance needs.
2. The inspection report or log must include the date of the inspection, the names of the person performing the inspection, and other relevant system observations.
3. System (single operational unit) inspections must include: quantification of the source and type of sanitary sewage (and whether or not the facility being served is occupied at the time of inspection); and water use records. The form must contain a general description of the system components and layout.
4. Septic tank inspections must include: the approximate age, size and condition of the tank; depth and location of the scum layer; depth and location of the sludge layer; solids % of capacity; physical condition of the baffles, inlet and outlet tees; evidence of significant leakage into or out of tank (watertightness); evidence of backup of effluent; /and cleaning of the effluent filter (if present).
5. Distribution box and dosing chamber inspections must include: condition of the box; evidence of solids carryover; leakage into or out of the box (watertightness); the static liquid level in the box; equal distribution of flow (level); evidence of backup; and other pertinent operational characteristics.

SPECIAL CONDITIONS

I. LICENSEE INSPECTIONS (cont'd)

6. Disposal field inspections must include: any signs of hydraulic failure; condition of the surface vegetation; level of ponding within the chamber and on the disposal area; examination of texture and color of the adjacent soil; physical encroachments into the disposal area; and other sources of hydraulic loading. Evidence of system failure to note may include: sewage surfacing, sewage back-up, lush green growth, slow draining, sewage odors, sogginess or ponding.
7. Where practicable the licensee must maintain and keep logs that record water level measurements in disposal fields at least once per week. Significant changes in water levels over the previous year will be identified, recorded and reported to the Department.
8. Systems with electrical or mechanical components, such as pumps, timers, control panels and alarms, need to be inspected and serviced according to manufacturer recommendations and in accordance with the facility operations and maintenance manual.
9. Inspections must be performed by the licensee at least once during the calendar year. Inspections are to be conducted more frequently for problem systems, large systems, or where required by the operations and maintenance manual.

Systems serving restaurants and other businesses or institutions must be inspected more frequently than residential systems (at least three times per year), due to waste that is generally higher in strength and volume.

J. MAINTENANCE LOGS

Maintenance logs must be maintained for each system component including pumps, dosing chambers, distribution boxes, septic tanks and absorption fields. At a minimum the log must include the alphanumeric ID, the date of maintenance, type or maintenance performed, names of persons performing the maintenance, volumes directed to each field and other relevant system observations.

SPECIAL CONDITIONS

K. PUMPING STATIONS AND QUANTITY OF FLOW

1. The system must be operated with a duplex pump system, or stand-by pump(s) should be available on-site (or satisfactory arrangement to obtain) for immediate use in order to prevent sewer overflows.
2. All pumps and controls must be tested and calibrated as recommended by the manufacturer and in accordance with the facility operations and maintenance manual, and repaired and replaced as necessary.
3. There must be a high-level detection system with an alarm designed to promptly notify responsible persons in the event of a malfunction. The level detection system in the tank must be set to activate at a level that will leave ample capacity in the pump tank in order to make repairs and or activate the standby pump.
4. Wherever feasible, agreements are to be made with nearby residents, patrolling police officers, and other Town employees to report activated alarms to the licensee as soon as possible.
5. A manual check of the operation of the pump, testing all level controls, switches and alarms must be performed at least once per month.
6. Pump flows must be recorded weekly and the average daily usage must be compared month to month for signs of abnormal flow or overloading of the disposal field(s) in excess of design capacity.
7. Pumping rates must be verified at least once per year for multi-bed systems or where changes in use are occurring. For single bed systems, pumping rates must be verified at least once every three years.

L. PUMPING (SOLIDS REMOVAL FROM SEPTIC TANKS, DOSING CHAMBERS, DISTRIBUTION BOXES AND OTHER TREATMENT TANKS)

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

SPECIAL CONDITIONS

M. LOADING OF DISPOSAL FIELDS AND LEACH BED DISCHARGE SCHEDULE

The licensee must maintain logs of loading (flows) to disposal field(s) and frequency of discharge events to individual leach beds, to assure that the beds are not being loaded in excess of design capacity and that they are being alternated properly. The logs must be kept on forms provided by the Department (See **Attachment "A"** of this License) and must be submitted monthly prior to the fifteenth day of the month following the discharge events.

N. OPERATIONS AND MAINTENANCE (O & M) PLAN

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

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.

The site plan(s) and schematic(s) should be suitable for reproduction on 11" x 17" paper and must include but not limited to all manholes, septic tanks and other treatment tanks including holding and polishing tanks, pump stations and disposal fields. Each system component must be provided with a unique alphanumeric identifier.

O. MONITORING AND REPORTING

Any submittals required or monitoring requirements must be reported in accordance with the attached Standard Conditions and directed to the attention of the assigned Facility Inspector at:

Department of Environmental Protection
Bureau of Land and Water Quality
312 Canco Road
Portland, ME 04103

SPECIAL CONDITIONS

P. REOPENING OF LICENSE MODIFICATIONS

Upon evaluation of any required test results, results of inspections and/or reporting required by the Special Conditions of this licensing action, additional site specific or any other pertinent information or test results obtained during the term of this license, the Department may, at anytime and with notice to the licensee, modify this license to require additional monitoring, inspections and/or reporting based on the new information.

Q. SEVERABILITY

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

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: April 18, 2018

COMPLIANCE TRACKING NUMBER: MEU507879
WASTE DISCHARGE LICENSE NUMBER: W007879-6B-F-R

NAME AND MAILING ADDRESS OF APPLICANT:

TOWN OF BRIDGTON
Attn: Robert Peabody, Town Manager
3 Chase Common, Suite #1
Bridgton, ME. 04009

COUNTY: Cumberland

NAME AND ADDRESS OF FACILITY:

Bridgton Subsurface Wastewater Treatment Systems
Dodge Field & Ball Field
Bridgton, Maine

RECEIVING WATER/ CLASSIFICATION: Groundwater/Class GW-A

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Robert Peabody**
Town Manager
(207) 647-8786
e-mail: townmanager@bridgtonmaine.org

1. APPLICATION SUMMARY

- a. Application: The Town of Bridgton (licensee) has submitted a timely and complete application to the Department for the renewal of Waste Discharge License (WDL) #W007879-6B-E-R / Permit Compliance System (PCS) tracking #MEU507879, which was issued by the Department on June 26, 2012, for a five-year term. The 6/26/12 WDL authorized the discharge of 30,800 gallons per day (gpd) of treated sanitary wastewater from a series of two sub-surface wastewater disposal systems to the groundwater, Class GW-A, in Bridgton, Maine. See **Attachment A** of this Fact Sheet for a location map of the two systems.

#W007847-50-D-R

1. APPLICATION SUMMARY (cont'd)**b. Source Description:**

Sanitary wastewater is generated by residential and commercial entities within the Village of Bridgton and north of Stevens Brook. There are no known industrial sources on the system. Water meters measure individual flows and are the basis for wastewater allocation of the treatment capacity. The applicant reports that the Wayside Avenue disposal fields (Central Main System) are at or near capacity.

c. Wastewater Treatment:

The two sub-surface systems provide a secondary level of treatment via septic tanks that provide settling and other physical, chemical and biological actions; and sub-surface disposal fields that distribute the flow and utilize the soil to further attenuate the pollutants in the wastewater.

2. LICENSE SUMMARY

a. This license carries forward all the terms and conditions of the previous license.

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

- | | |
|----------------|---|
| 1982 | - The Town of Bridgton's two treatment systems were built and designed in accordance with the Maine State Plumbing Code as it existed in 1982. |
| March 27, 1995 | - The Department informed the Town of Bridgton that <i>state law</i> [38 MRSA Section 413 (1-B) requires that municipal sub-surface disposal systems be licensed. |
| June 22, 1995 | - The Town of Bridgton submitted an application to the Department to install, operate and maintain a series of sub-surface wastewater disposal systems. |

#W007847-50-D-R

2. LICENSE SUMMARY (cont'd)

- | | |
|-------------------|--|
| August 28, 1996 | - The Department issued WDL #W007879-58-A-N which authorized the Town of Bridgton to discharge 0.030 million gallons per day (MGD) of wastewater to the groundwater via two sub-surface systems for a five-year term. |
| June 26, 2002 | - The Department issued WDL #W007879-5L-B-R renewing and modifying Bridgton's license to discharge 0.032 MGD of treated sanitary wastewater from a series of two sub-surface treatment systems. The WDL was issued for a five year period. |
| April 27, 2007 | The Department issued WDL #W007879-5L-B-R renewing and modifying Bridgton's license to discharge 0.032 MGD of treated sanitary wastewater from a series of two sub-surface treatment systems. The WDL was issued for a five year period. |
| September 6, 2011 | The Department issued WDL #W007879-6B-C-M modifying Bridgton's license to discharge 0.04035 MGD (up from 0.032 MGD) of treated sanitary wastewater from a series of two sub-surface treatment systems. The modification expired on April 27, 2012. |
| May 14, 2012 | The Town of Bridgton submitted a timely and complete application to the Department to renew the WDL for the sub-surface wastewater disposal system. |
| June 26, 2012 | The Department issued WDL #W007879-6B-E-R renewing Bridgton's license to discharge 0.0308 MGD of treated sanitary wastewater from a series of two sub-surface treatment systems. The WDL was issued for a five year period |
| January 2, 2018 | The Town of Bridgton submitted a complete application to the Department to renew the WDL for the sub-surface wastewater disposal system. |

3. CONDITIONS OF THE LICENSE

Conditions of Licenses, 38 M.R.S. Section 414 A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with The Clean Water Act and ensure the receiving waters attain the State water quality standards as described in Maine's Surface Water and Groundwater Classification Systems.

#W007847-50-D-R

4. RECEIVING WATER QUALITY STANDARDS

Conditions of Groundwater, 38 M.R.S. § 470 indicates the groundwater at the point of discharge is classified as Class GW-A receiving waters. *Standard of Classifications of Groundwater*, 38 M.R.S., §465-C describes the standards for Class GW-A waters 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, taste or odor which would impair the usage of these waters, other than occurring from natural phenomena.

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

This licensing action carries forward certain operational constraints and use restrictions from the previous licensing action that the Department feels are necessary to the successful operation of subsurface treatment systems

6. USER EDUCATION

User education in the proper use and maintenance of the subsurface system is critical to the long-term operation of the disposal fields and the protection of groundwater. Therefore, the licensee is expected to provide system users with regular informational mailings, or similar means of public contact, on the proper use and maintenance of the subsurface wastewater system such as: proper disposal of hazardous waste, elimination of harmful household cleaners, grease and other non-degradables in the system; and water conservation practices.

7. MAINTAIN ADEQUATE BUFFERS AND LAND FOR REPLACEMENT

The licensee is expected to provide adequate buffers from other land uses, and retain where possible land for system expansion or replacement.

8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

9. PUBLIC COMMENTS

Public notice of this application was made in the Bridgton News newspaper on or about December 1, 2017. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft licenses must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

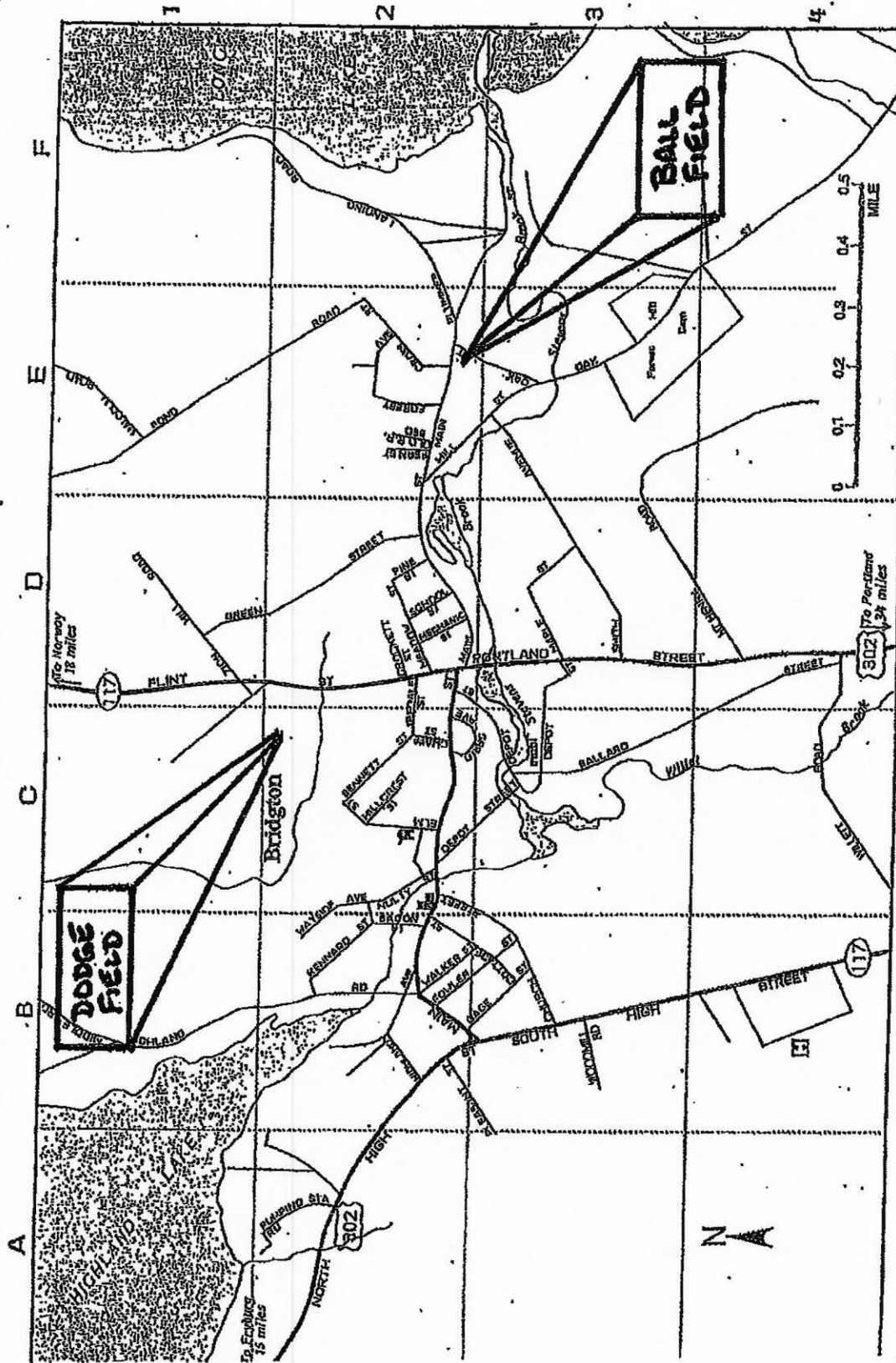
#W007847-50-D-R

10. DEPARTMENT CONTACTS

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

Rod Robert
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017
(207) 446-1875
E-mail rodney.robert@maine.gov

ATTACHMENT A



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

CONTENTS

SECTION	TOPIC	PAGE
A	GENERAL PROVISIONS	
	1 General compliance	2
	2 Other materials	2
	3 Duty to Comply	2
	4 Duty to provide information	2
	5 Permit actions	2
	6 Reopener clause	2
	7 Oil and hazardous substances	2
	8 Property rights	3
	9 Confidentiality	3
	10 Duty to reapply	3
	11 Other laws	3
	12 Inspection and entry	3
B	OPERATION AND MAINTENANCE OF FACILITIES	
	1 General facility requirements	3
	2 Proper operation and maintenance	4
	3 Need to halt reduce not a defense	4
	4 Duty to mitigate	4
	5 Bypasses	4
	6 Upsets	5
C	MONITORING AND RECORDS	
	1 General requirements	6
	2 Representative sampling	6
	3 Monitoring and records	6
D	REPORTING REQUIREMENTS	
	1 Reporting requirements	7
	2 Signatory requirement	8
	3 Availability of reports	8
	4 Existing manufacturing, commercial, mining, and silvicultural dischargers	8
	5 Publicly owned treatment works	9
E	OTHER PROVISIONS	
	1 Emergency action - power failure	9
	2 Spill prevention	10
	3 Removed substances	10
	4 Connection to municipal sewer	10
F	DEFINITIONS	10

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

5. Bypasses.

(a) Definitions.

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

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

(c) Notice.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- (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

C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

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

D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

- (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

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

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

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

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

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

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

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

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



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

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

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

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

II. JUDICIAL APPEALS

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

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

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

ADDITIONAL INFORMATION

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

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