STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

September 1, 2009

Mr. Butch Bracy
Plant Supervisor
Mount Desert Island High School
P.O. Box 180
Mount Desert, ME 04660

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #MEU503319
Maine Waste Discharge License (WDL) Application #W003319-6B-D-R
Final Permit/License-Mount Desert Island High School

Dear Mr. Bracy:

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

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

If you have any questions regarding this matter, please feel free to contact me at (207) 287-7658 or at phyllis.a.rand@maine.gov.

Sincerely,

Phyllis Arnold Rand

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

Enclosure

Cc: Clarissa Trasko, DEP Lori Mitchell-DMU Doug Koopman, EPA Sandy Mojica, EPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550FAX: (207) 624-6024
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

MOUNT DESERT HIGH SCHOOL	)	PROTECTION AND IMPROVEMENT
MOUNT DESERT, HANCOCK COUNTY, MAINE	)	OF WATERS
SURFACE WASTEWATER DISPOSAL SYSTEM	)	
#MEU503319	)	WASTE DISCHARGE LICENSE
#W003319-6B-D-R **APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the MOUNT DESERT HIGH SCHOOL (MDHS) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The applicant has applied for a renewal of Waste Discharge License (WDL) #W003319-5L-C-R which was issued on September 15, 2004 and is due to expire on September 15, 2009. The spray irrigation area is located to the north and easterly of the MDHS complex and comprises 5.45 acres (of which 5.16 acres are suitable for spray irrigation) as shown on **Attachment A** in this license. The design flow, based on 750 students and staff, is approximately 9,300 gallons per day (gpd). In addition, approximately 10,400 gpd of precipitation and an unknown quantity of groundwater enters the lagoons.

RENEWAL SUMMARY

This licensing action is carrying forward the terms and conditions of the previous licensing action with the following exceptions:

1. The licensee is no longer required to monitor and analyze groundwater samples for turbidity.
2. The licensee is no longer required to report monitoring well flow pump-out rates.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated September 1, 2009, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.

2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.

CONCLUSIONS (cont'd)

3. The provisions of the State's antidegradation policy, 38 MRSA Section 464(4)(F), will be met, in that:

   (a) Existing water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;

   (b) Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;

   (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;

   (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and

   (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharge will be subject to effluent limitations that require application of best practicable treatment.

ACTION

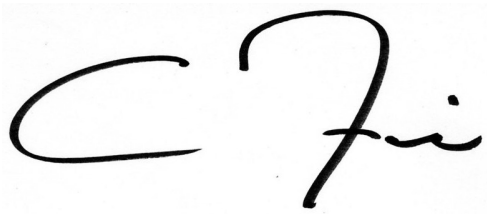
THEREFORE, the Department APPROVES the above noted application of MOUNT DESERT HIGH SCHOOL to operate a surface wastewater disposal system, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. Standard Conditions of POTW Waste Discharge Licenses (Revised July 16, 1996), copy attached.

2. The attached Special Conditions, including effluent limitations and monitoring requirements.

3. This license expires five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date
2009.09.08 12:46:15 -04'00'

Date of initial receipt of application: July 7, 2009
Date of application acceptance: July 10, 2009
This Order prepared by Phyllis Arnold Rand, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning the effective date of the license, the licensee is authorized to operate a surface wastewater treatment and disposal system. The **LAGOON EFFLUENT (OUTFALL #001)** [(1)] shall be limited and monitored as specified below.

1.

Monitoring Parameters	**Daily Maximum**	**Minimum Measurement Frequency**	**Sample Type**
Biochemical Oxygen Demand (July and August) *[00310]*	100 mg/L *[19]*	2/Year[(2)] *[02/YR]*	Grab *[GR]*
Lagoon Level Freeboard (April 1 – November 30) *[82564]*	Two Feet (minimum level) *[27]*	1/Week[(2)] *[01/07]*	Measure *[MS]*
Total Suspended Solids (July and August) *[00530]*	100 mg/L *[19]*	2/Year[(2)] *[02/YR]*	Grab *[GR]*
Nitrate-Nitrogen (July and August) *[00620]*	Report mg/L *[19]*	2/Year[(2)] *[02/YR]*	Grab *[GR]*

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

Footnotes: See pages 7-8 of this License

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

2. Application of wastewater to the land via a spray irrigation system shall be limited to the time frame of April 15th – November 15th of each year. The **SPRAY IRRIGATION FIELDS (SF1)** shall be limited and monitored as specified below.

2.

Monitoring Parameters	**Weekly Maximum**	**Minimum Measurement Frequency**	**Sample Type**
Application Rate (Weekly) (4) **April 15th-- May 31st** *[51125]*	54,300 gal/acre/week(5) (2.0 in/week) *[8G]*	1/Week *[01/07]*	Calculate *[CA]*
Application Rate (Weekly) (4) **June** *[51125]*	81,450 gal/acre/week(5) (3.0 in/week) *[8G]*	1/Week *[01/07]*	Calculate *[CA]*
Application Rate (Weekly) (4) **July** *[51125]*	95,025 gal/acre/week(5) (3.5 in/week) *[8G]*	1/Week *[01/07]*	Calculate *[CA]*
Application Rate (Weekly) (4) **August** *[51125]*	86,880 gal/acre/week(5) (3.2 in/week) *[8G]*	1/Week *[01/07]*	Calculate *[CA]*
Application Rate (Weekly) (4) **September** *[51125]*	59,730 gal/acre/week(5) (2.2 in/week) *[8G]*	1/Week *[01/07]*	Calculate *[CA]*
Application Rate (Weekly) (4) **October – November 15th** *[51125]*	27,150 gal/acre/week(5) (1.0 in/week) *[8G]*	1/Week *[01/07]*	Calculate *[CA]*
Flow - Total Gallons(3) *[51500]*	---	1/Month*[01/30]*	Calculate*[CA]*

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

Footnotes: See pages 7-8 of this License

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. **GROUNDWATER MONITORING WELLS**:

- MW-1A (Corresponds to the well located downgradient of the lagoons—is located southwesterly of lagoon #1)
- MW-2A (corresponds to the well located downgradient from the spray irrigation area—is located southerly of spray lateral A)
- MW-3A (corresponds to the well located upgradient from the spray irrigation area— is located northerly of spray lateral #1)

Monitoring Parameters	Daily Maximum	Minimum Measurement Frequency	Sample Type
Depth to Water Level Below Land surface *[72019]* (May 1 – October 31)	Report (feet)(6) *[27]*	1/Month(7) *[01/30]*	Measure *[MS]*
Nitrate-Nitrogen *[00620]*	10 mg/L*[19]*	Three / Year (8) *[03/YR]*	Grab *[GR]*
Chloride (Total)[1] *[00940}*	Report (mg/L) *[19]*	Three / Year (8) *[03/YR]*	Grab *[GR]*
Specific Conductance[1]*[00095}*	Report (umhos/cm) *[11]*	Three / Year (8) *[03/YR]*	Grab*[GR]*
Temperature (°F)[1] *[00011}*	Report (°F) *[15]*	Three / Year (8) *[03/YR]*	Grab *[GR]*
Total Suspended Solids[1]*[00530}*	Report (mg/L) *[19]*	Three / Year (8) *[03/YR]*	Grab *[GR]*
pH (Standard Units)[1] *[00400}*	Report (S.U.) *[12]*	Three / Year (8) *[03/YR]*	Grab *[GR]*

Footnotes: See pages 7-8 of this License

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

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

Lagoon Effluent

1. Storage lagoon effluent shall be sampled from sampling port on the effluent pipe leading from the lagoon pumphouse to the spray irrigation area and shall be representative of what is actually sprayed on the fields. Any change in sampling location must be approved by the Department in writing.

   Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 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 shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

   All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RL's) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report as <X lbs/day, where X is the parameter-specific limitation established in the permit.

2. All lagoon effluent sampling shall be conducted in the months of **July and August** of each calendar year in accordance with approved methods for sampling, handling and preservation (see footnote #1) with the exception of Lagoon Level Freeboard. Lagoon Level Freeboard shall be measured between the months of **April through November** of each year because of the history of the facility having experienced wastewater overtopping the lagoon berms and flowing to adjacent areas. The licensee is not required to test for these parameters during a month where no wastewater was disposed of via the spray irrigation system.

3. The licensee shall measure the flow of wastewater to the irrigation area using a flow meter. The methodology shall be checked for calibration at least once per calendar year.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Spray irrigation Fields & Groundwater Monitoring

4. A field's daily or weekly application rate is the total gallons sprayed over the applicable period of time divided by the size of the wetted area of the spray irrigation field in acres or the size in acres of that portion of the field utilized. Note: 27,152 gallons is equivalent to 1 acre-inch. Weekly is defined as Sunday through Saturday. When a calendar week begins in one month and ends in the next the compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.

5. For Discharge Monitoring Report (DMR) reporting purposes, the licensee shall report the highest weekly application rate for the month in the applicable box on the form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends**.**

6. Measured to the nearest one-tenth ($1/10^{th}$) of a foot as referenced from the surface of the ground at the base of the monitoring well.

7. "Depth to Water Level Below the Land Surface" shall be conducted at the monitoring wells in the months of **May <u>through</u> October (inclusive)** of each calendar year.

8. Groundwater sampling shall be conducted three times per year in the months of **(1) May, (2) July or August, and (3) October** of each year. Sampling, handling and preservation shall be conducted in accordance with federally approved methods (See footnote #1 above).

   Specific conductance (calibrated to 25.0° C), temperature, and pH are considered to be "field" parameters, and are to be measured in the field via instrumentation. The licensee is required to test for these parameters regardless of whether or not wastewater was disposed of via the spray irrigation system.

B. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the wastewater treatment facility must hold a **Maine Grade I** Spray Irrigation Treatment System (SITS) certificate, or equivalent as allowed pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S.A., Sections 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department within two weeks of the contractor being retained by the licensee.

SPECIAL CONDITIONS

C. MONITORING AND REPORTING

Monitoring results obtained during the previous month (**April through November**) shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office** such that the DMR's are **received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

Bureau of Land and Water Quality
Eastern Maine Regional Office
Maine Department of Environmental Protection
106 Hogan Road
Bangor, Maine 04401

Alternatively, if you are submitting an electronic Discharge Monitoring Report (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory **not later than close of business on the 15th day of the month** following the completed reporting period. **Hard Copy documentation** submitted in support of the eDMR must be **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. **Electronic documentation** in support of the eDMR must be submitted **not later than close of business on the 15th day of the month** following the completed reporting period.

D. AUTHORIZED DISCHARGES

The licensee is authorized to discharge treated sanitary wastewater only in accordance with the terms and conditions of this license and only to the existing spray irrigation field (#SF1) and from those sources as indicated in the Waste Discharge License Application. Discharge of wastewater from any other location or from sources other than those indicated on said application requires formal modification of this license.

The collection, treatment or discharge of wastewater which has constituents unlike that or significantly higher in strength than that of domestic wastewater is prohibited without formal modification of this license.

SPECIAL CONDITIONS

E. NOTIFICATION REQUIREMENT

In accordance with Standard Condition #6 of this license, the licensee shall 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. For the purposes of this section, notice regarding substantial change shall 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.

F. GENERAL OPERATIONAL CONSTRAINTS

1) All wastewater shall receive pretreatment through the 37,000 gallon septic tank and a properly designed, operated and maintained lagoon system prior to land irrigation.

2) The spray irrigation facilities shall be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of ground waters which will render them unsatisfactory for usage as a public drinking water supply.

3) The surface wastewater disposal system shall not cause lowering of the quality of the groundwater below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to Maine Law 22 M.R.S.A. § 2611.

4) In the event groundwater indicates adverse effects, the licensee may be required to take immediate remedial action(s), which may include but not limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, or ceasing operation of the system until the groundwater attains applicable standards.

5) The Department shall 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, and action taken to repair/correct, and prevent recurrence. Notification shall be made in accordance with the attached Standard Condition #4 of this license.

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS

1. Suitable vegetative cover shall be maintained. Wastewater may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff outside the designated boundaries of the spray fields.

2. At least 10 inches of separation from the ground surface to the groundwater table must be present prior to spraying.

SPECIAL CONDITIONS

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS (cont'd)

3. There shall be no runoff outside the designated spray field boundaries as a result of operation of the spray system.

4. No wastewater shall be applied to the site following a rainfall accumulation exceeding 1.0 inch within the previous 24-hour period. A rain gauge shall be located onsite to monitor daily precipitation. The licensee shall also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.

5. No wastewater shall be applied where there is snow present on the surface of the ground.

6. No wastewater shall be applied when there is frost within the upper 10 inches of the soil profile.

7. No traffic or equipment shall be allowed in the spray irrigation field except where installation occurs or where normal operations and maintenance are performed.

H. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS

1. **Each day prior to irrigating**, the licensee shall visually inspect the spray irrigation site to determine if the soil moisture conditions are appropriate for spraying and all the operational constraints listed in Special Condition G above are met.
2. The licensee shall at all times maintain in good working order and operate at maximum efficiency all wastewater collection, treatment and/or control facilities. **Within one hour after start-up of the spray irrigation system**, the licensee shall walk the spray irrigation site (and maintenance staff will also periodically monitor the spray equipment throughout the day) to check the system for leakage in the piping system and determine if individual spray heads and pump(s) are functioning as designed, and verify that application rates are appropriate for the existing site conditions. 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 of the spray system. The licensee shall cease irrigation if runoff is observed outside the designated boundaries of the spray field(s).

3. The licensee shall maintain a daily log of all spray irrigation operations which records the date, weather, soil moisture conditions, rainfall, lagoon freeboard (top of lagoon to the water surface), areas irrigated, volume sprayed (gallons), application rates (daily and hourly), and other relevant observations/comments from daily inspections. The log shall be in accordance with the format of the *"Monthly Operations Log"* provided as **Attachment B** of this license.

   Weekly spray application rates shall be reported in accordance with the format (or similar format) of the "*Spray Application Report by Week*" provided as **Attachment C** of this license. Depth to water below land surface observed in monitoring wells shall be reported

SPECIAL CONDITIONS

H. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS (cont'd)

in accordance with the format (or similar format) of the "*Depth to Ground Water*" log provided as **Attachment D** of this license.

The daily operational logs and weekly spray application reports for each month shall be submitted to the Department as an attachment to the monthly Discharge Monitoring Reports. Copies will also be maintained on site for Department review and for license operation maintenance purposes.

I. VEGETATION MANAGEMENT

1. The licensee shall remove grasses and other vegetation such as shrubs and trees if necessary so as not to impair the operation of the spray irrigation system, 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 shall be maintained to maximize vegetation and forest canopy density in order to minimize off-site drift of spray.

J. LAGOON MAINTENANCE

1. The banks of the lagoon shall be inspected weekly during the operating season and properly maintained. There shall be no overflow through or over the banks. Any signs of leaks, destructive animal activity or soil erosion of the berms shall be repaired immediately.

2. Maintenance of the banks of the lagoon shall be conducted to keep them free of woody vegetation and other vegetation that may be detrimental to the integrity of the berm and/or lagoon liner.

3. The waters within the lagoon shall be kept free of all vegetation (i.e. grasses, reeds, cattails, etc) that hinders the operation of the lagoon.

4. The lagoon shall be dredged as necessary to maintain the proper operating depths that will provide best practicable treatment of the wastewater. All material removed from the lagoon(s) shall be properly disposed of in accordance with all applicable State and Federal rules and regulations. Dredging shall not damage the integrity of the soil pond liner.

5. The licensee shall maintain the lagoon freeboard at design levels or at least two (2) feet whichever is greater. The storage lagoon shall be operated in such a way as to balance the disposal of wastewater via spray irrigation, including the necessary storage capacity for precipitation, to ensure that design freeboard levels are maintained.

SPECIAL CONDITIONS

K. SEPTIC TANK

1. The septic tank shall be regularly inspected (at least once per calendar year) and maintained to ensure that it is providing best practicable treatment.

2. Tank contents should be removed whenever the sludge and scum occupies one-third of the tank's liquid capacity or whenever levels approach maximum design capacity. Following pumping, the tanks shall be checked for damage at key joints and the inlet and outlet baffles, and repaired promptly if damaged. The licensee shall keep a pumping log including the date of pumping, quantity of material removed, name and number of licensed contractor, pumping frequency and other relevant observations.

L. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

The licensee is prohibited from accepting transported wastes for disposal into any part or parts of the wastewater disposal system. "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.

M. INSPECTIONS AND MAINTENANCE

The licensee shall periodically inspect all system components to ensure the facility is being operated and maintained in accordance with the design of the system. Maintenance logs shall be maintained for each major system component including pumps, pump stations, septic tanks, lagoons, spray apparatus, and pipes. At a minimum, the logs shall include the specific location of the maintenance, the date of maintenance, type of maintenance performed, names or person performing the maintenance, and other relevant system observations.

N. SUBMITTAL OF SPRAY IRRIGATION PERFORMANCE REPORT

The licensee shall submit to the Department a report of the treatment system's performance covering the previous calendar year. The report shall be dated and signed by the operator in responsible charge of the system.

The report shall include, but is not necessarily limited to, an updated source description, an updated schematic and narrative of the treatment system and distribution system, a summary of the past performance demonstrating compliance with all terms and conditions of the effective license, a capacity evaluation of the lagoon system to include a comparison of lagoon influent flows to final lagoon effluent (spray irrigation) flows, a description of any proposed changes in the overall system or operation of the system, and if applicable, proposed changes in the effective license.

SPECIAL CONDITIONS

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

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the licensee 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 licensee to achieve compliance with the conditions of this permit.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the licensee shall 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 shall be kept on-site at all times and made available to Department and EPA personnel upon request. **Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility**, the licensee shall submit the updated O&M Plan to their Department inspector for review and comment.

P. PUBLIC ACCESS TO LAND APPLICATION SITES AND SIGNAGE

Public access to the land application sites shall be controlled during the season(s) of active site use. Such controls shall include the posting of signs showing the activities being conducted at each site. The licensee shall install signs measuring at least 8 ½" x 11" around the perimeter of the lagoon and spray irrigation site that inform the general public that the area is being used to dispose of sanitary wastewater. Each sign must be placed such that at least two other signs (one left, one right) may be seen from any one posted sign. The signs must be constructed of materials that are weather resistant.

The licensee must walk the perimeter of the lagoon and spray site prior to the beginning of each spray season and make any necessary repairs to the signage to comply with this condition.

Q. REOPENING OF LICENSE FOR MODIFICATIONS

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

R. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit shall remain in full force and effect, and shall 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

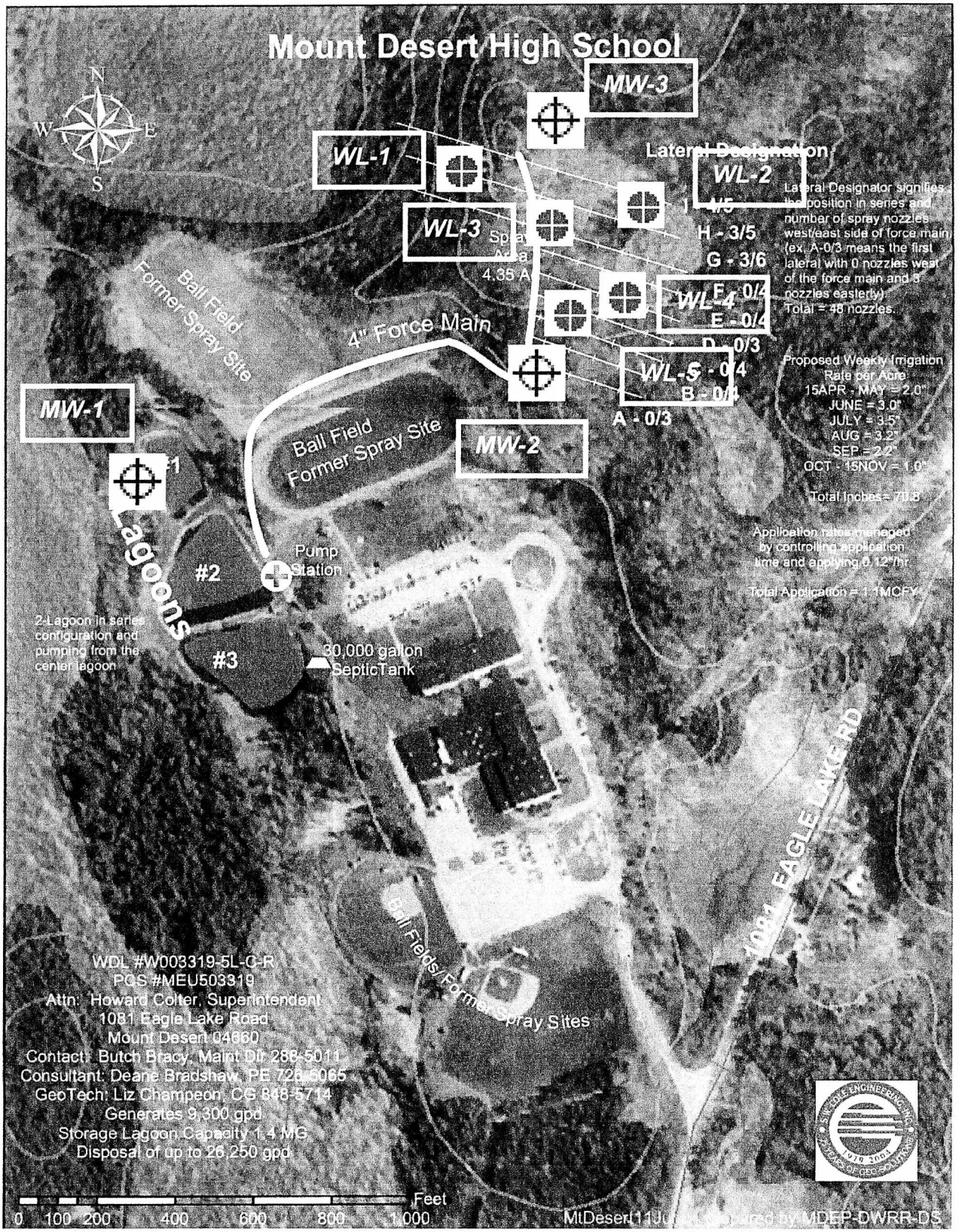


Figure 1 Proposed Locations Of Monitoring Wells And Moisture Sensors

Monthly Operations Log **Attachment B** **(Month/Year) _____)**

WDL #_____; Fields #_____Weekly Application Rate: _____ gallons/acre (____inches)

	A	B	C	D	E	F	G	H	I	J	K
Day	DATE	PRECIP Inches	TEMP	WEATHER	WIND-Direction Speed	Soil Moisture	Quantity-Total Gallons Pumped	Name of Field(s) Used	Acres Sprayed (Area of Each Field in Column H)	Gallons/Acre (inches) (Col G divided by I)	Total Inches
	1										
	2										
	3										
	4										
	5										
	6										
	7										
	8										
	9										
	10										
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	28										
	29										
	30										
	31										
Monthly Total =											

Spray Application Report by Week Attachment C Facility Name_____;

WDL #_____;(Month _____, Year _____) Weekly Application Rate _____gallons/acre ___inches)

Field Name/#	Effective Spray Area (Acres)	Weekly Limit (Gallons/Acre)	Actual Spray Application Rates (Gallons per Acre)					Number of Exceptions to Weekly Limit	Monthly Average
			Week 1	Week 2	Week 3	Week 4	Week 5		

Note: 1 acre-inch is equivalent to 27,150 gallons of liquid
27,150 gallons per acre is equivalent to 1.0 inch

Total Number of Exceptions

A spray-field's weekly application rate is the total gallons sprayed (Sunday through Saturday) divided by the size of the spray-field in acres or the size in acres of that portion of the spray field utilized.

Signature of Responsible Official: _____, Date _____

Depth to Groundwater (Tenths of Feet) **Attachment D** (Month _____, Year _____)

Facility Name_____; WDL #_____;

Field Name/#	Monitoring Location	1. Depth to Groundwater (Measured From Ground Surface in Tenths of Feet)					Number of Exceptions	Monthly Average Depth
		Week 1	Week 2	Week 3	Week 4	Week 5		
				Total Number of Exceptions				

Note: Special Condition G of the License requires that a depth of 10 inches from the ground surface to the groundwater table must be present prior to spraying.

Signature of Responsible Official: _____, Date: _____

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: September 1, 2009

PERMIT COMPLIANCE TRACKING SYSTEM NUMBER: **MEU503319**

LICENSE NUMBER: **W003319-6B-D-R**

NAME AND MAILING ADDRESS OF APPLICANT:

MOUNT DESERT ISLAND REGIONAL SCHOOL SYSTEM
Mr. Howard Colter, Superintendent
AOS #91
P.O. Box 60
Mount Desert, ME 04660

COUNTY: **Hancock County**

NAME AND ADDRESS OF FACILITY:

Mount Desert Island High School
1081 Eagle Lake Road
Mount Desert, Maine 04660

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

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Herman "Butch" Bracy**
Plant Supervisor
207-288-5011
hbracy@u98.k12.me.us

1. APPLICATION SUMMARY:

a. Application – The Mount Desert High School (MDHS) has applied for a renewal of Waste Discharge License (WDL) #W003319-5L-C-R, which was issued on September 15, 2004, and is due to expire on September 15, 2009. The applicant is filing for renewal of a spray irrigation license on 5.45 acres of land, of which 5.16 acres to the north and easterly of the MDHS complex are suitable for spray irrigation.

1. APPLICATION SUMMARY (cont'd)

b. Source Description – Wastewater is generated from the school's restrooms, kitchen facilities, water fountains, home economic classrooms and janitorial services and is characterized as similar to typical domestic wastewater.

The school generates approximately 9,300 gallons per day (GPD) of wastewater from 650 students (12 gpd per student) and 100 teachers and staff (15 gpd per teacher/staff) while the school is in session (200 days per year). Additionally, the licensee estimates that 10,400 gpd of precipitation and groundwater flows into the lagoons and is spray irrigated. Therefore, the spray irrigation system must dispose of (9,300 X 200) =1.9 million gallons per year (MGY) of septic tank wastewater and (10,400 X 365) = 3.8 MGY of precipitation/ groundwater inflow for a total of 5.7 MGY.

c. Wastewater Treatment (Spray irrigation) – The applicant treats sanitary wastewater through a slow-rate land irrigation system (spray irrigation). Prior to spraying, the wastewater receives pretreatment through a single 37,000-gallon septic tank and a series of three (3) facultative lagoons. The three lagoons have a combined surface area of 3.2 acres and a maximum operating capacity (assuming two (2) feet of freeboard) of 5.1 MG (682,500 cubic feet X 7.48 gallons per cubic foot). The lagoons provide a calculated average detention time of 327 days (5.1 MG ÷ 5.7 MGY X 365 days per year). Although the calculated detention time is 327 days, the school manages the wastewater by completely pumping all wastewater out of the lagoons during the summer months.

Wastewater generated by the school is directed from the septic tank to lagoon #1 or lagoon #3 for facultative treatment. Wastewater from lagoons #1 and #3 is conveyed to lagoon #2 for polishing. From lagoon #2, effluent is pumped onto the spray irrigation area via a 4-inch diameter polyethylene force main. The irrigation area includes nine lateral distribution lines leading from the force main. The lateral distribution lines each contain between three and nine distribution nozzles that spray wastewater in a circular pattern with a diameter of 90 feet.

In the past, the licensee has reported problematic conditions with the lagoon berms in the past and Department staff has observed wastewater overtopping the berms and holes in the berms that have allowed wastewater to flow in an uncontrolled manner to adjacent wetlands. The Department issued a Notice of Violation (dated June 11, 2003) to the school citing the need to cease unlicensed discharges to the wetland, prevent overtopping of the lagoon berms with wastewater, and to evaluate the integrity of the lagoons.

d. Site Conditions – The lagoon and spray irrigation areas are located on moderately level to sloping terrain (generally ranging between 0-8% slope) about 2,500 feet northeasterly of Somes Sound, 500 feet northerly of the school complex and approximately 200 feet westerly of Heath Brook, the nearest water body. Soil surveys performed of the area of the spray irrigation system indicate the soil is predominantly Dixfield with some inclusions of Lamoine and Tunbridge soils. These soils are characterized as moderately well to somewhat poorly drained and formed in glacial till deposits and glaciomarine sediments. There are some rock outcrops in the spray irrigation area. The spray irrigation area is currently used as wooded land (without structures or building improvements).

2. LICENSE SUMMARY

a. History – Recent Department licensing actions include the following:

August 2, 1994 – The Department issued WDL #W003319-58-A-N, which authorized the operation of a new surface wastewater disposal system for the treatment and disposal of sanitary wastewater.

April 22, 1999 – The Department issued WDL #W003319-5L-B-R, which renewed the surface wastewater disposal system.

December 30, 2003 – Application for renewal submitted to the Department for processing.

February 4, 2004 – The Department of Human Services, Bureau of Health (BOH) commented to the DEP about the school's existing practice of spraying undisinfected wastewater onto athletic and practice fields. The Bureau of Health commented that the practice should cease immediately on the athletic or practice fields or that the wastewater should be disinfected.

April 27, 2004 – The Department wrote to MDHS regarding the Bureau of Health's recommendations and indicated that DEP concurred with the BOH assessment in that the wastewater should be disinfected (if applied to the athletic fields) or that a new spray irrigation area should be identified and used.

May 17, 2004 – Mount Desert High School revised its application to utilize a new spray irrigation area.

September 15, 2004 – The Department issued WDL #W003319-5L-C-M which renewed the surface wastewater disposal system.

July 10, 2009 – Mount Desert High School submitted a complete and timely application for renewal of WDL #W003319-5L-C-R.

b. Terms and Conditions – This licensing action is carrying forward the terms and conditions of the previous licensing actions with the exceptions of monitoring groundwater samples for turbidity and reporting flow pump-out rates.

3. CONDITIONS OF THE LICENSE

Maine law, 38 M.R.S.A. 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 U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A., Section 420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program,* require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water*

3. CONDITIONS OF THE LICENSE (cont'd)

Quality Criteria for Toxic Pollutants, and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A § 470 indicates the groundwater at the point of discharge is classified as Class GW-A receiving waters. Maine law, 38 M.R.S.A., §465-C describes the standards for Class GW-A waters as the highest classification of groundwater and shall be of such quality that it can be used for public water supplies. These waters shall 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. TREATMENT

Slow-rate land irrigation treatment is an environmentally sound and appropriate technology for best practicable treatment and disposal of sanitary wastewater. The soils and vegetation within the irrigation area will provide adequate filtration and absorption to preserve the integrity of the soil and both the surface and groundwater quality in the area.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Lagoon Effluent

The previous licensing action established twice-per-year (July and August) monitoring requirements for biochemical oxygen demand (BOD_5), total suspended solids (TSS), and nitrate-nitrogen for lagoon effluent as it exits the lagoon to be sprayed. Monitoring for these parameters yields an indication of the effectiveness of the lagoon treatment process and the condition of the wastewater being applied. The monitoring requirements are being carried forward in this licensing action.

A review of the Discharge Monitoring Report (DMR) for the period **July 2005 – July 2009** indicates the following:

BOD_5 (n=6)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	100	17 – 33	26

TSS (n=6)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	100	39 – 80	50

Nitrate-nitrogen - Nitrogen compounds are by-products of the biological breakdown of ammonia and organic nitrogen and are inherent in domestic sanitary wastewater. Because nitrate-nitrogen is weakly absorbed by soil, it functions as a reliable indicator of contamination from waste disposal sites. Also, elevated levels of nitrate-nitrogen in the drinking water supply

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

are of human health concern. The limit of 10 mg/L is a National Primary Drinking Water standard. The monitoring requirements for nitrate-nitrogen are being carried forward in this licensing action.

A review of the DMR data for the period **July 2005 – July 2009** indicates the following:

Nitrate-nitrogen concentration (n=5)

Value	**Limit (mg/L)**	**Range (mg/L)**	**Average (mg/L)**
Daily Maximum	Report	<0.05 – 0.5	0.4

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

Spray Irrigation Application Rates (Weekly)

The weekly maximum spray irrigation rate of 95,000 gallons per acre (3.5 inches/week) in order to maintain a minimum of 10 inches of unsaturated soil in the spray irrigation area is based on the characteristics of the in-situ soils and a groundwater mounding model prepared by S. W. Cole Engineering. Regardless of the calculated rate, the system operator shall monitor each wastewater application to verify adequate infiltration into the soil. An irrigation cycle should be stopped if runoff or excessive ponding start to occur. This licensing action is carrying forward the spray irrigation system limitations as follows:

Application Rate (inches/week)	Weekly Maximum (gal/acre/wk)	Weekly Total on 5.16 acres	Weeks Applied
2.0	54,300	280,188	15Apr-31May
3.0	81,450	420,282	June
3.5	95,025	490,329	July
3.2	86,880	448,301	August
2.2	59,730	308,207	September
1.0	27,150	140,094	October-15November
Note: 1 acre-inch is equivalent to 27,150 gallons			

A review of DMR data for the period of **July 2005 – July 2009** indicates the following:

Weekly Maximum Limit (gal/acre/wk)	Range (gal/acre/wk)	Average (gal/acre/wk)	Weeks Applied
54,300	47,017 – 54,011	51,631 (n=4)	15Apr-31May
81,450	56,537 – 81,405	72,468 (n=3)	June
95,025	63,920 – 93,645	83,154 (n=3)	July
86,880	77,325	77,325 (n=1)	August
59,730	58,868	58,868 (n=1)	September
27,150	26,840 – 58,960	42,900 (n=2)	October-15November

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

Lagoon Levels (freeboard)

The amount of freeboard space between the lagoon or pond surface elevation and the lowest point in the top of the respective berm is being measured to prevent overtopping of the berms and to evaluate facility operation for managing flows and annual precipitation. This licensing action is carrying forward the requirement of a minimum of two feet of freeboard, to be measured weekly from April 1 – November 30, to ensure that the wastewater will not overtop the lagoon berms and will provide ample opportunity for the licensee to properly manage the wastewater levels in the lagoons.

A review of DMR data for the period **July 2005 – July 2009** indicates the following:

Lagoon Level Freeboard-April – November (n=30)

Value	**Minimum Level (feet)**	**Range (feet)**	**Average (feet)**
Daily Maximum	2	3 – 6	5

Groundwater Monitoring Wells

The facility has three monitoring wells: MW-1A is located downgradient from the lagoon to monitor lagoon leakage; MW-2A is located downgradient from the spray irrigation area to monitor effects on the groundwater from the spray irrigation operation and MW-3A is located upgradient from the spray irrigation area in order to monitor ambient groundwater conditions.

The Department has determined that total suspended solids tests are appropriate methods for measuring the amount of particulates in groundwater. The Department has further determined that turbidity is a similar measurement of particulates in groundwater. Therefore, this licensing action is removing the requirement for turbidity testing on the groundwater monitoring well samples. With the exceptions of turbidity monitoring and flow pump-out rates, this licensing action is carrying forward the groundwater monitoring requirements from the previous licensing action.

A review of DMR data for the period **July 2005 – July 2009** indicates the following:

Depth to Water Level Below Land surface

MW	**Limit** (ft)	**Range (**ft)	**Average** (ft)
MW-1A (n=20)	Report	1.3 – 4.8	3.0
MW-2A (n=20)	Report	0.2 – 6.2	2.4
MW-3A (n=21)	Report	9.6 – 26.5	15.4

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

Nitrate-Nitrogen (n=11)*

MW	**Limit** (mg/L)	**Range (**mg/L)	**Average (**mg/L)
MW-1A	10	<0.05 – <2.0	0.8
MW-2A	10	<0.5 – <2.0	0.8
MW-3A	10	<0.5 – <2.0	0.8

Chloride (total) (n=11)

MW	**Limit** (mg/L)	**Range (**mg/L)	**Average (**mg/L)
MW-1A	Report	11 – 16	13
MW-2A	Report	9 – 21	15
MW-3A	Report	3 – 5	4

Specific Conductance (n=11)

MW	**Limit (**umhos/cm)	**Range (**umhos/cm)	**Average (**umhos/cm)
MW-1A	Report	0.275 – 333	219
MW-2A	Report	0.05 – 96	50
MW-3A	Report	0.18 – 27	15

Temperature (n=11)

MW	**Limit** (Deg F)	**Range** (Deg F)	**Average** (Deg F)
MW-1A	Report	47 – 59	53
MW-2A	Report	44 – 58	52
MW-3A	Report	45 – 58	53

Total Suspended Solids (n=11)*

MW	**Limit** (mg/L)	**Range** (mg/L)	**Average** (mg/L)
MW-1A	Report	<1 – 38	16
MW-2A	Report	<1 – 5	1
MW-3A	Report	<1 – 4	2

*For calculation purposes, results reported as "less than" were calculated at the detection limit.

pH (n=11)

MW	**Limit** (SU)	**Range** (SU)
MW-1A	Report	5.7 – 6.7
MW-2A	Report	4.8 – 6.1
MW-3A	Report	4.9 – 5.6

7. SYSTEM CALIBRATION

Discharge rates, application rates and uniformity of application change over time as equipment gets older and components wear or if the system is operated differently from the assumed design. Operating below design pressure greatly reduces the coverage diameter and application uniformity resulting in increased ponding and, as a result, not allowing maximum use of the area available. For these reasons, the licensee should field calibrate their equipment on a regular basis to ensure proper application and uniformity and when operating conditions are changed from the assumed design.

Calibration involves collecting and measuring flow at several locations in the application area (typically a grid pattern of containers with uniform diameters). Rain gauges work best because they already have a graduated scale from which to read the application amount without having to perform additional calculations.

Attachment A of this Fact Sheet entitled, "*Example Spray Irrigation Field Calibration Report Form*" is provided as an aid to the licensee in the recalibration process. It is recommended that this form or similar form be submitted to the Department Compliance Inspector shortly after re-licensing and annually thereafter, or whenever operating conditions are changed from the assumed design.

8. GREASE TRAPS

Although not specifically required by this licensing action, it is the Department's recommendation that any food preparation facility or dining halls serviced by the spray irrigation treatment system have an external grease interceptor preceding the septic tank to help facilitate best practicable treatment and ensure proper functioning of the septic tank(s). Grease interceptors should be inspected by the licensee at least two times per year and the septic tank cleaned when the volume of the grease equals more than 50% of the capacity of the tank.

9. 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.

10. PUBLIC COMMENTS

Public notice of this application was made in the *Bar Harbor Times*, a newspaper with circulation in the area of the proposed discharge on or about June 25, 2009. 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 shall 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.

11. DEPARTMENT CONTACTS

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

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

12. RESPONSE TO COMMENTS

During the period of July 29, 2009, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued to Mount Desert Island High School. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

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Attachment A
Example Spray Irrigation Field Calibration Report Form

Background Data

Describe the reasons for system re-calibration (example annual calibration or change in operating conditions). When there has been a change in operating conditions list the specific changes such as new components (pumps, spray heads, size or type of pipes, etc.) or previously approved design changes.

Describe the current method for estimating the flow of wastewater to the irrigation area, i.e., meter or pump calibration data. When using pump calibration data list the estimated flow rate of the pump for the existing site conditions (example gallons per minute). Also note the assumed diameter of coverage for the individual spray heads and the resulting area of application (acreage). Based on this information what is the assumed application rate in inches per hour and gallons per acre. Note: 1 acre-inch equals 27,150 gallons.

System Calibration

Describe or attach illustrations of the system calibration procedure, i.e., grid layout or rain gauge or other uniform containers.

List the actual radius of spray coverage of the individual spray heads as measured during the field calibration and note any application uniformity problems such as noticeable ponding or uneven applications.

Calculate the acreage of the application based on the actual radius of coverage measured in the field. Show calculations.

Example: (27,150 gallons/acre/inch)(1.5 inch/week)(1.3 acres) = 52,942 gallons/week

Calculate the estimated hourly application rate in inches per hour and gallons per acre obtained during the above calibration. Show calculations.

New Calibration Data

What changes to the estimates of wastewater flow are proposed, if any and why? And are the licensed application rates satisfied?

Any adjustments to improve uniformity of spray applications?

Submitted by: Signature of Operator in Responsible Charge	On Date:
Reviewed by: Signature of Operator in Responsible Charge	On Date:

CONTENTS

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).

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 if 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 MAINTENACE 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

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.

(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.

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.

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

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).

(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.

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 contaminates 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.

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.

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 Commissioner's Licensing Decision

Dated: May 2004 **Contact: (207) 287-2811**

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status*. Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

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

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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