

FACILITY



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

March 20, 2012

VIA ELECTRONIC MAIL

Mr. Rick Dyer
Dyer Excavation, Incorporated
P.O. Box 436
Harrison, ME 04040
didon@myfairpoint.net

RE: Maine Permit Compliance System #MEU508124
Maine Waste Discharge License (WDL) Application #W008124-5J-E-R
Final Waste Discharge License – Dyer Excavation, Incorporated

Dear Mr. Dyer:

Enclosed please find a copy of your final Maine 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 via email at: phyllis.a.rand@maine.gov.

Sincerely,

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

Enclosure

Cc: Fred Gallant, DEP/SMRO Lori Mitchell, DEP/DMU

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

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

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679-2094
(207) 764-0477 FAX: (207) 760-3143



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

DEPARTMENT ORDER

IN THE MATTER OF

DYER EXCAVATION, INCORPORATED	)	PROTECTION AND IMPROVEMENT
HARRISON, CUMBERLAND COUNTY	)	OF WATERS
SUBSURFACE WASTEWATER DISPOSAL	)	WASTE DISCHARGE LICENSE
MEU508124	)	
W008124-5J-E-R	)	RENEWAL
APPROVAL	)	

Pursuant to the provisions of Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection ("Department") has considered the application of DYER EXCAVATION, INC. ("licensee"), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The licensee has applied for a renewal of Waste Discharge License (WDL) #W008124-5J-B-R, which was issued to Roderick Dyer on February 28, 2007, modified on March 12, 2008 and September 10, 2008 and is due to expire on February 28, 2012. The 2/28/07 WDL and subsequent modifications licensed the discharge of 6,500 gallons per day of leachate generated from a commercial septic tank pumping operation to groundwater, Class GW-A, in Harrison, Maine. The licensee's name changed since the previous licensing action and is now Dyer Excavation, Incorporated.

LICENSE SUMMARY

This licensing action is carrying forward all the terms and conditions of the 2/28/07, 3/12/08 and 9/10/08 licensing actions with the following exceptions:

1. This licensing action is eliminating the groundwater well monitoring requirement for Total Kjeldahl Nitrogen.
2. This licensing action is eliminating the requirement for submittal of a Water Quality Monitoring Report.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated March 20, 2012, 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 existing groundwater quality.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 MRSA Section 464(4)(F), will be satisfied, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain water quality 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 DYER EXCAVATION, INCORPORATED, to discharge 6,500 gallons per day of treated septage leachate waste water to a subsurface wastewater disposal system and to ground water, Class GW-A, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. Standard Conditions of Industrial Waste Discharge Licenses (Revised August 14, 1996), copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This license becomes effective upon the date of signature below and expires at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this license, the authorization to discharge and the terms and conditions of this license and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [Maine Administrative Procedure Act, 5 M.R.S.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

DONE AND DATED AT AUGUSTA, MAINE, THIS 2 DAY OF April, 2012.

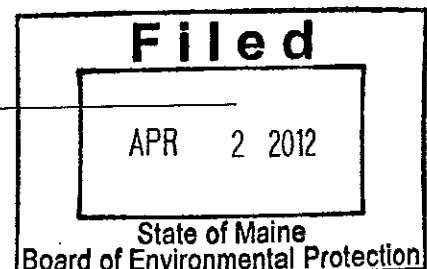
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
for Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date filed with Board of Environmental Protection _____

Date of initial receipt of application November 21, 2011
Date of application acceptance November 23, 2011



This Order prepared by Phyllis Arnold Rand, BUREAU OF LAND & WATER QUALITY

MEU508124 2012

SPECIAL CONDITIONS**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. Beginning the effective date of the license, the licensee is authorized to operate a surface waste water treatment and disposal system via **Outfall #002**. Outfall #002 is defined as the pump station/effluent pipe from the last septic tank leading to the leachfield. Such discharges shall be limited and monitored by the licensee as specified below ⁽¹⁾:

Effluent Characteristic	Discharge Limitations		Monitoring Requirements	
	Monthly Average as specified Report, GPD ⁽³⁾ [07]	Daily Maximum as specified 6,500 GPD [07] 250 mg/L [19]	Measurement Frequency as specified 1/Week [01/07] 1/Quarter ⁽³⁾ [01/90]	Sample Type as specified Calculate [CA] Grab [GR]
Flow [50050] Biochemical Oxygen Demand, BOD [00310]	---	250 mg/L [19]	1/Quarter ⁽³⁾ [01/90]	Grab [GR]
Total Suspended Solids, TSS [00530]	---	250 mg/L [19]	1/Quarter ⁽³⁾ [01/90]	Grab [GR]
Nitrate-Nitrogen [00620]	---	Report mg/L [19]	1/Quarter ⁽³⁾ [01/90]	Grab [GR]
pH [00400]	---	6.0-9.0 Standard Units [12]	1/Quarter ⁽³⁾ [01/90]	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.

Sampling at outfall #002 is only required when there is any actual flow at any time during the monthly reporting period.

Footnotes: Refer to page 6 of this license for applicable footnotes.

SPECIAL CONDITIONS

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

2. Beginning the effective date of this license, **Monitoring Wells (MW1, MW2, & MW3)** shall be limited and monitored by the licensee as specified below.⁽¹⁾

MW-1 and MW-2 are located within 20 feet from the perimeter of the entire leachfield system. **MW-3** is defined as the south-easterly most monitoring well shown as revised on the May 8, 2000 Site Plan prepared by Albert Frick Associates, Incorporated.

Effluent Characteristic	Discharge Limitations		Monitoring Requirements	
	Daily Maximum	as specified	Measurement Frequency	Sample Type
			as specified	as specified
Specific Conductance ⁽⁴⁾ [00095]	Report, umhos/cm [11]		1/Quarter [01/90]	Measure [MS]
Dissolved Oxygen [00300]	Report, mg/L [19]		1/Quarter [01/90]	Grab [GR]
Total Suspended Solids, TSS [00530]	Report, mg/L [19]		1/Quarter [01/90]	Grab [GR]
Nitrate-Nitrogen [00620]	10 mg/L [19]		1/Quarter [01/90]	Grab [GR]
Temperature ⁽⁴⁾ [00010]	Report, C° [15]		1/Quarter [01/90]	Measure [MS]
Depth to Water Table from Ground Surface [72019]	Report, inches below ground [61]		1/Quarter [01/90]	Measure [MS]
pH ⁽⁴⁾ [00400]	6.0-9.0, Standard Units		1/Quarter [01/90]	Grab [GR]

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

Footnotes: Refer to page 6 of this license for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes:

1. **Sampling:** Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a 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 2/13/00). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Laboratory Certification Rules*, 10-144 CMR263 (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 (RLs) 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 RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **Flow:** Flow shall be calculated as follows: The total discharge by liquid (gallons) measured during the calendar month divided by the number of days in the month that the facility was operating.
3. There shall be at least 45 days between routine sampling events.
4. For the purpose of this license, specific conductivity may be measured in the laboratory (normally a field parameter) as long as Department approved methods for handling and preservation of the sample are adhered to and analysis is performed in accordance with methods approved by 40 Code of Federal Regulations (CFR) Part 136. By definition the sample shall be temperature calibrated to 25°C. In addition, the licensee shall report immediately to the Department specific conductance values greater than 275 umhos/cm, consistent trends approaching 275 umhos/cm or sudden spikes from previous levels, which may necessitate the need for additional groundwater testing requirements.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usage designated by the classification of the groundwater.
2. Notwithstanding specific conditions of this license the effluent must not lower the quality of any classified body of groundwater below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. MONITORING AND REPORTING

Monitoring results obtained during the previous month 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 DMRs 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:

Maine Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
Southern Maine Regional Office
312 Canco Road
Portland, Maine 04103

Alternatively, if submitting an electronic DMR (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.

SPECIAL CONDITIONS

D. 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.

E. PROHIBITION OF NON-DOMESTIC USERS

The wastewater treatment system may not be used to treat or discharge wastewater other than from domestic users.

F. AUTHORIZED DISCHARGES

The licensee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on 11/23/11; 2) the terms and conditions of this license; and 3) only from Outfall #002. Discharges of wastewater from any other point source are not authorized under this license.

G. OPERATIONS AND MAINTENANCE (O&M) PLAN

The licensee 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 the systems of treatment and control (and related appurtenances) which are installed or used by the licensee to achieve compliance with the conditions of this license.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the licensee 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 and made available to Department personnel upon request.

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

SPECIAL CONDITIONS

H. GENERAL OPERATIONAL REQUIREMENTS

1. The licensee shall operate the system consistent with the requirements of the *Maine Subsurface Waste Water Disposal Rules*, 10-144 CMR 241 (effective August 1, 2005) and other pertinent regulations, as well as the limitations of the design.
2. All upgrades, replacements or authorized expansions of the treatment systems shall be in accordance with 10-144 CMR 241 and be approved by the Department.
3. The licensee shall perform semi-annual inspections of the storage tanks to determine levels of accumulated grease or sludge. The licensee shall maintain a record of the inspections of all the system components, the name of inspectors, inspection dates, inspection results, observations, and maintenance recommended. Copies of inspection reports must be retained and be forwarded to the Department with monthly Discharge Monitoring Reports. The licensee shall pump the tanks at least once every year, or more often if indicated by the inspections.
4. The licensee shall maintain a record of septage tank pumping, including the location and date of pumping, quantity of material removed and other relevant observations. Also to be retained is information about the source of the septage and tank volume. Report the quantity of flow discharged on a monthly basis (to be forwarded to the Department) including observations of the leach field performance and from the observation ports in the disposal field (height of water level, characteristics of grease/sludge components, or short-circuiting in the wastewater disposal field).
5. This approval is limited to the methods and plans described in the application and supporting documents. Any variation is subject to review and approval prior to implementation. At no time shall the addition of septage cause or contribute to effluent violations. If such conditions exist, the introduction of septage into the treatment process or solids handling stream shall be suspended until effluent compliance can be maintained. If, for any reason, the treatment process becomes overloaded, introduction of any more septage into the treatment process shall be reduced or terminated in order for the elimination of the overload condition. Septage known to be harmful to the treatment process shall not be accepted by the facility. Waste which contains potentially harmful levels of heavy metals, toxic chemicals, extreme pH, flammable or corrosive materials in concentrations harmful to the treatment process shall not be accepted by the facility.

I. GROUND WATER MONITORING WELLS AND WATER QUALITY MONITORING PLAN

The licensee shall maintain an up-to-date groundwater quality monitoring plan showing the locations and well construction details of the wells, groundwater flow direction and well sampling results as well as a comprehensive evaluation of the efficiency of the treatment system and testing methodology.

SPECIAL CONDITIONS

I. GROUND WATER MONITORING WELLS AND WATER QUALITY MONITORING PLAN (cont'd)

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

J. REOPENING OF LICENSE FOR MODIFICATIONS

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

K. SEVERABILITY

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

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

March 20, 2012

PERMIT COMPLIANCE SYSTEM NUMBER: MEU508124

LICENSE NUMBER: W008124-5J-E-R

NAME AND MAILING ADDRESS OF APPLICANT:

**DYER EXCAVATION, INCORPORATED
P.O. Box 436
Harrison, Maine 04040**

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

**DYER EXCAVATION, INCORPORATED
722 Norway Road
Harrison, Maine 04040**

COUNTY: Cumberland County

RECEIVING WATER/ CLASSIFICATION: Groundwater/Class GW-A

**COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Rick Dyer
(207) 583-4546
didon@myfairpoint.net**

1. APPLICATION SUMMARY

- a. Application: Dyer Excavation, Inc. ("licensee") has applied for a renewal of Waste Discharge License (WDL) #W008124-5J-B-R, which was issued on February 28, 2007, modified on March 12, 2008 and September 10, 2008, and is due to expire on February 28, 2012. The 2/28/07 WDL and subsequent modifications licensed the discharge of 6,500 gallons per day of leachate generated from a commercial septic tank pumping operation to groundwater, Class GW-A, in Harrison, Maine. The licensee's name changed since the previous licensing action and is now Dyer Excavation, Incorporated.

2. LICENSE SUMMARY

- a. Terms & Conditions: This licensing action is carrying forward all the terms and conditions of the 2/28/07, 3/12/08 and 9/10/08 licensing actions with the following exceptions:
1. This licensing action is eliminating the groundwater well monitoring requirement for Total Kjeldahl Nitrogen.
 2. This licensing action is eliminating the requirement for submittal of a Water Quality Monitoring Report.

- b. History: The most recent licensing/permitting actions include the following:

September 25, 1996 – The Department approved a solid waste disposal license (#S-008228-53-D-N) authorizing the land spreading of septage on the northerly side of Route 117 in Harrison. The septage landspreading occurs on the same parcel of land where the applicant proposes to dispose of supernatant generated by a commercial septage dewatering operation.

July 12, 2001 – The applicant submitted an application to the Department for a new Waste Discharge License (#W008124-5J-A-N) for the discharge of supernatant generated by a commercial septage dewatering operation. The application was for a subsurface wastewater disposal system that is designed to treat and attenuate 2,000 gallons per day of wastewater generated by the operation. On July 19, 2001, the Department accepted the application for processing. On June 18, 2002 the Department approved the application for the discharge to the sub-surface waste water disposal system.

December 7, 2006 – The Department administratively modified the license issued to Roderick Dyer, by reducing the monitoring frequency at the ground water monitoring wells from a monthly to a calendar quarter basis. All other terms and conditions of the license remain unchanged.

February 28, 2007 – The Department issued WDL #W008124-5J-B-R for a 5-year term.

March 12, 2008 – The Department modified WDL #W008124-5J-B-R by increasing the licensed daily maximum flow from 2,000 gallons per day to 6,500 gallons per day and eliminating the limitations and/or monitoring requirements for specific conductance, TKN and temperature, and reducing the monitory frequencies for BOD5, TSS, nitrates and pH from 1/Month to 1/Quarter. The modification was assigned WDL#W008124-5J-C-M.

September 10, 2008 – The Department modified WDL# W008124-5J-B-R by correcting a typographical error for the nitrate-nitrogen limitation at Outfall #002 from 10 mg/L to “report” only. The modification was assigned WDL#W008124-5J-D-M.

2. LICENSE SUMMARY (cont'd)

November 21, 2011 – The licensee submitted a timely license renewal application. The application was accepted as complete on November 23, 2011 and was assigned WDL#W008124-5J-E-R.

- c. Source Description: The licensee receives septage from periodic maintenance and pumping of area residential subsurface wastewater disposal systems. Only septic tanks serving residential structures are received by the applicant. There is no contribution from septic systems serving commercial or industrial users.
- d. Wastewater Treatment: Septage is pumped from area septic tanks and transported and contained in the tank-trucks. The septage is then off-loaded through a 2" bar rack to a holding tank. The licensee uses polymer to dewater the septage and to supplement the treatment process. The liquid fraction of the septage is separated from the solid fraction and is then pumped to storage tank #1 (8,000 gallon capacity) by a 3 HP conveyor screener and drained to storage tank #2 (8,000 gallon capacity) where a mixing pump adds polymer in a container hopper. The liquid is then pumped to 5,000-gallon storage tank #3. The effluent from this storage tank #3 is considered to be outfall #001. The effluent is then conveyed by a timed, metered pump to the sand filter system for further processing of the wastewater. Two sand filters (each 8 X 24 feet) are used to improve the wastewater quality prior to discharge. Each sand filter is designed to accommodate up to 2,000 gallons of wastewater. The hydraulic conductivity of the filters is expected to be greatest during startup and will diminish over time due to organic material accumulations on the surface and within the first few inches of the filter. When filter conductivity diminishes, the wastes will be directed to the second of the two sand filters, and the slow filter will be rejuvenated by vacuum suction of organics as described in the application.

Wastewater passing through the filter is then directed to two 1,000-gallon septic tanks in series and then to a soil absorption area located southerly from the filters via a pump calibrated to discharge up to 1,800 gallons per day. The soil absorption area measures 80 by 130 feet and contains three rows of three stone beds. Each stone bed contains a monitoring port that provides an opportunity to observe internal system performance and collect samples if necessary. Soils in the area of the soil absorption area are moderately well drained, Skerry fine sandy loam. Skerry soil is not considered to be a hydric soil type. Skerry soil is suitable for the discharge of waste water.

Monitoring wells are located 20 feet from the edges of the disposal area and within the plume of the wastewater disposal effluent. Monitoring wells will be monitored periodically in accordance with Special Condition A.2 of this license.

3. CONDITIONS OF LICENSES

Conditions of Licenses, 38 M.R.S.A. §414-A, requires that the effluent limitations prescribed for discharges 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 Water Classification System. In addition, *Surface Water Ambient Toxics Monitoring Program*, 38 M.R.S.A. §420, and *Surface Water Toxics Control Program*, 06-096 CMR 530, requires the regulation of toxic substances at the levels set forth for Federal Water Quality Criteria as published by the U.S. Environmental Protection Agency pursuant to the Clean Water Act.

4. RECEIVING WATER QUALITY STANDARDS

Classification of Groundwater, 38 M.R.S.A., §470 indicates that groundwater at the point of discharge is classified as Class GW-A receiving waters. *Standards for the Classification of Groundwater*, 38 M.R.S.A., §465-C, describes the standards for waters classified as Class GW-A 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 usage of these waters, other than that occurring from natural phenomena.

5. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

The previous licensing action designated the influent sampling port as Outfall #001. The sampling port was located at the discharge point on the storage tank where pretreatment of the waste water has already occurred. The Department reviewed this location and determined that since pretreatment has already occurred, it would not be representative as the influent sampling location. Therefore the Department has discontinued the sampling requirements at this location. Outfall #002 is designated as the effluent sampling port at the sand filters, just prior to discharge. This licensing action continues Outfall #002 as the effluent sampling location. Due to the location of the two new leachfield beds in 2007, groundwater monitoring wells MW#1 and MW#2 were relocated to no more than 20 feet from the perimeter of the entire leachfield system.

- a. Flow: The daily maximum flow limitation of 6,500 gallons per day (GPD) in the previous licensing action is being carried forward in this licensing action based on the design of the system. A summary of the monthly Discharge Monitoring Report (DMR) data for the period March 1, 2007 through November 1, 2011 (n = 40) indicates the licensee has discharged monthly average and daily maximum flows (same results) in the range of 1,625 GPD to 6,500 GPD with an average of 2,428 GPD and a daily maximum flow of 6,500 GPD.

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

- b. Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS): BOD5 is a measure of pollutant strength and is an indicator of the amount of oxygen necessary to stabilize a waste. TSS is a measurement of the presence of solids in the wastewater and an indicator of the integrity of the monitoring wells and of the efficiency of the treatment process. This licensing action is carrying forward the daily maximum BOD5 and TSS limitations of 250 mg/L, each, from the previous licensing action for Outfall #002. This licensing action is carrying forward the quarterly TSS "Report" monitoring requirement for Monitoring Wells 1, 2 and 3. A review of the DMR data for the period March 1, 2007 through November 1, 2011 indicates the daily maximum concentration values for BOD5 & TSS have been reported as follows:

BOD₅ Concentration, Outfall #002

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum	250	33 – 720	142	23	91%

BOD₅ Concentration, MW1, MW2, MW3

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum-MW1	Report	<2 – <5	4	13	N/A
Daily Maximum-MW2	Report	<2 – 22	5	13	N/A
Daily Maximum-MW3	Report	<2 – 24	6	13	N/A

Results reported as "less than" (<) were considered present at the reporting limit for calculation purposes.

TSS concentration, Outfall #002

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum	250	11 – 112	41	23	100%

TSS Concentration, MW1, MW2, MW3

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum-MW1	Report	<2 – <5	4	13	N/A
Daily Maximum-MW2	Report	<2 – <5	5	13	N/A
Daily Maximum-MW3	Report	<2 – 24	6	13	N/A

Results reported as "less than" (<) were considered present at the reporting limit for calculation purposes.

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

- c. Nitrate-nitrogen: Nitrogen compounds are by-products of the biological breakdown of ammonia and are normally detected in domestic sanitary waste water. Nitrogen assumes different forms depending on the oxidation-reduction potential in soil and groundwater. The presence of a particular form of nitrogen indicates the nutrient-reducing capacity of the site. Monitoring nitrogen compounds can also help identify chronic leakage from the system. Nitrogen compounds can indicate human health concerns if elevated in drinking water supplies. The nitrate-nitrogen monitoring requirements being carried forward from the previous licensing action are being carried forward from the previous licensing action in order to determine treatment effectiveness. The nitrate-nitrogen limit of 10 mg/L is a National Primary Drinking Water Standard and is being carried forward for the groundwater monitoring wells. The TKN monitoring parameter is being eliminated subsequent to Departmental review of historic data collected during the period of March 1, 2007 through November 1, 2011. The Department's review of TKN data indicates no significant impacts to the ground water quality as measured in the existing monitoring wells as a result of the discharge from the permittee. The Department, therefore, finds that monitoring of TKN that was required previously is no longer warranted.

A review of the DMR data for the period March 1, 2007 through November 1, 2011 indicates the daily maximum concentration values have been reported as follows:

Nitrate-nitrogen, Outfall #002

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum	Report	0 – 54	21	22	N/A

Nitrate-nitrogen, MW1, MW2, MW3

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum-MW1	10	0 – 4	2	13	100%
Daily Maximum-MW2	10	0 – 3	1	13	100%
Daily Maximum-MW3	10	0 – 5	2	13	100%

Results reported as "less than" (<) were considered present at the reporting limit for calculation purposes.

- d. Specific Conductance & Temperature: Specific conductance is considered a surveillance level monitoring parameter that is used as an early indicator of potential groundwater contamination and is dependent on the temperature of the sample collected. This licensing action is carrying forward the specific conductance monitoring requirements for MW1, MW2 and MW3.

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

A review of the DMR data for the period March 1, 2007 through November 1, 2011 indicates the daily maximum concentration values have been reported as follows:

Specific Conductance

Value	Limit (umhos/cm)	Range (umhos/cm)	Average (umhos/cm)	Number of DMRs	Compliance
Daily Maximum-MW1	Report	57 – 245	127	13	N/A
Daily Maximum-MW2	Report	47 – 320	114	13	N/A
Daily Maximum-MW3	Report	45 – 280	147	13	N/A

Temperature

Value	Limit (Deg C)	Range (Deg C)	Average (Deg C)	Number of DMRs	Compliance
Daily Maximum-MW1	Report	6 – 17	12	11	N/A
Daily Maximum-MW2	Report	6 – 18	13	12	N/A
Daily Maximum-MW3	Report	6 – 18	13	12	N/A

- e. pH: The pH limit of 6.0 to 9.0 standard units is being carried forward from the previous licensing action. The pH limit is a best practicable treatment standard incorporated in similar waste discharge licenses issued by the Department. It is considered a surveillance level monitoring parameter that is used as an indicator of potential contamination.

A review of the DMR data for the period March 1, 2007 through November 1, 2011 indicates the daily maximum concentration values have been reported as follows:

pH

Value	Limit (SU)	Range (SU)	Number of DMRs	Compliance
Outfall #002	6.0 – 9.0	6.2 – 7.2	23	100%
Daily Maximum-MW1	6.0 – 9.0	6.0 – 6.9	13	100%
Daily Maximum-MW2	6.0 – 9.0	6.0 – 6.7	13	100%
Daily Maximum-MW3	6.0 – 9.0	6.0 – 6.8	13	100%

- f. Dissolved Oxygen: Dissolved oxygen (DO) content in the monitoring wells is to be measured in lieu of chemical oxygen demand. DO is a measure of the amount of oxygen contained in the water column. Diminished DO or downward trends of DO may be associated with pollutant plumes that have been discharged to the subsurface environment in the well capture zone. This licensing action is carrying forward the DO monitoring requirements from the previous licensing action.

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

A review of the DMR data for the period March 1, 2007 through November 1, 2011 indicates the daily maximum concentration values have been reported as follows:

Dissolved Oxygen

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum-MW1	Report	2 – 8	4	12	N/A
Daily Maximum-MW2	Report	3 – 7	4	12	N/A
Daily Maximum-MW3	Report	1 – 8	5	12	N/A

- g. Depth to Water Table From Ground Surface: This licensing action is carrying forward the depth monitoring requirements from the previous licensing action. A review of the DMR data for the period March 1, 2007 through November 1, 2011 indicates the daily maximum values have been reported as follows:

Depth to Water Table From Ground Surface

Value	Limit (inches)	Range (inches)	Average (inches)	Number of DMRs	Compliance
Daily Maximum-MW1	Report	1 – 84	35	13	N/A
Daily Maximum-MW2	Report	6 – 62	27	13	N/A
Daily Maximum-MW3	Report	2 – 811	84	13	N/A

6. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

7. PUBLIC COMMENTS

Public notice of this application was made in the *Lewiston Sun Journal* newspaper that has general circulation in the vicinity of the project on or about November 12, 2011. 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 permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

8. DEPARTMENT CONTACTS

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

Phyllis Rand
Division of Water Quality Management
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
Email: phyllis.a.rand@maine.com

Telephone (207) 287-7658

9. RESPONSE TO COMMENTS

During the period of February 15, 2012 through the issuance date of the license, the Department solicited comments on the proposed draft license to be issued for the discharge(s) from the licensee. The Department did not receive comments from the licensee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the license. Therefore, the Department has not prepared a Response to Comments.

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD CONDITIONS OF INDUSTRIAL WASTE DISCHARGE LICENSES

1. General Conditions

- A. All discharges shall be consistent with the terms and conditions of this license; 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 license; it shall be a violation of the terms and conditions of this license 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 license.
- B. The licensee shall permit the Department of Environmental Protection Staff upon the presentation of proper credentials:
- 1) To enter upon licensee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this license;
 - 2) To have access to and copy any records required to be kept under the terms and conditions of this license;
 - 3) To inspect any monitoring equipment or monitoring method required in this license; or,
 - 4) To measure and/or sample at any intake, process or cooling effluent stream, wastewater treatment facility, and/or outfall.
- C. This license shall be subject to such monitoring requirements as may be reasonably required by the Department of Environmental Protection including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The licensee shall provide the Department of Environmental Protection with periodic reports on the proper Department of Environmental Protection reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.
- D. This license does not preclude obtaining other required Federal, State, or Municipal permits and does not authorize or approve the construction of any onshore physical structures or facilities or the undertaking of any work in any navigable waters.
- E. The issuance of this license does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights nor any infringement of Federal, State or local laws or regulations.
- F. Nothing in this license shall be construed to relieve the licensee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond his control, such as accident, equipment breakdown, labor dispute, or natural disaster.

2. Treatment Plant Operator

The Treatment Facility must be operated by a person holding a Grade ~~I, II, III, IV, V~~ certificate pursuant to 32 M.R.S.A., Section 4171 et seq. All proposed contracts for facility operation by any person must be approved by the department before the licensee may engage the services of the contract operator.

3. ~~Disinfection~~

~~Disinfection shall be used to reduce the concentration of bacteria to or below the level specified in the "Effluent Limitations and Monitoring Requirement" section of this license. If chlorination is used as a means of disinfection, an approved contact chamber shall be provided. The chlorine residual in the effluent shall at no time cause any demonstrable harm to aquatic life in the receiving waters. A positive chlorine residual shall be maintained at all times as required by this license, however, at no time shall the total chlorine residual of the effluent exceed 1.0 mg/l.~~

4. Wastewater Treatment and Sampling Facilities

- a. The licensee shall collect all waste flows designated by the Department of Environmental Protection 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 licensee shall at all times maintain in good working order and operate at maximum efficiency all wastewater 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 staff of the Department of Environmental Protection and approved prior to the construction or modification of any treatment facilities.
- e. The licensee shall install flow measuring facilities of a design approved by the Department of Environmental Protection.
- f. The licensee must provide an outfall of a design approved by the Department of Environmental Protection which is placed in the receiving waters in such a manner that maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

5. Monitoring and Reporting

a. 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 licensee 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.

- b. The sampling, preservation, handling, and analytical methods used must conform with Standard Methods for the Examination of Water and Wastewaters, American Public Health Association, 1015 18th Street, N.W., Washington, D.C. 20036, latest approved edition, or methods referenced in 40 CFR Part 136, Guidelines Establishing Test Procedures for Analysis of Pollutants. However, different but equivalent methods are allowable if they receive the prior written approval from the Department of Environmental Protection.

c. Reporting

- (1) The results of the above monitoring requirements shall be reported on reporting forms supplied by the department in the units specified at a frequency of once:

~~yearly~~ ~~semi-annually~~ ~~quarterly~~ monthly

- (2) All reports shall be submitted to the Department by not later than the tenth of the month following the end of the monitoring period.
- (3) Any reports or records of monitoring activities and results shall include for all samples: (a) the date, exact place, and time of sampling; (b) the dates and times analyses; (d) the analytical techniques/methods used, including sampling, handling, and preservation techniques; and (e) the results of all required analyses.

d. All reports shall be signed by:

- (1) In the case of corporations, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the reporting form originates.
- (2) In the case of a partnership, by a general partner or duly authorized representative.
- (3) In the case of a sole proprietorship, by the proprietor or duly authorized representative.
- (4) In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or duly authorized employee.
- (e) All monitoring reports and future correspondence regarding monitoring facilities should be directed to:

Bureau of Water Quality Control
Department of Environmental Protection
State House Station #17
Augusta, Maine 04333

6. Non-Compliance Notification

- a. In the event the licensee bypasses collection or treatment facilities or is unable to comply with any of the conditions of this license due, among other reasons, to:

1. breakdown of waste treatment equipment;
2. accidents caused by error or negligence;
3. high strength, high volume or incompatible wastes, or
4. other causes such as acts of nature,

the licensee shall notify the Department of Environmental Protection verbally as soon as its agents have knowledge of the incident.

- b. Within five (5) days of becoming aware of such condition the licensee shall provide the Department of Environmental Protection in writing, the following information:

1. A description of the discharge and cause of noncompliance; and
2. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

- c. If the licensee knows in advance of changes in licensed facilities or activities which may result in non-compliance or of the need to bypass, it shall submit prior notice at least ten days in advance of such occurrence.
- d. In the event a bypass is due to inflow or infiltration of uncontaminated water into a sewer system, reporting requirements may be adjusted by the Department to a monthly basis.

7. Change of Discharge

The licensee shall notify the department in writing as soon as it has knowledge of any significant changes or proposed changes in its discharge, including but not limited to:

- a) the temporary or permanent termination of the discharge;
- b) changes in the waste collection, treatment or disposal facilities;
- c) changes in the volume or character of wastewater flows;
- d) permanent changes in industrial production rates;
- e) the proposed addition, directly or indirectly, of toxic pollutants not authorized by the license or reflected in the application filed with the department;
- f) the addition to a municipal or quasi-municipal treatment system of industrial wastes which are categorically regulated by the U.S. EPA pursuant to the agency's pretreatment program.

8. Transfer of Ownership

In the event that any person possessing a license issued by the Department shall transfer the ownership of the property, facility or structure which is the source of a licensed discharge, without transfer of the license being approved by the Department, the license granted by the Department shall continue to authorize a discharge within the limits and subject to the terms and conditions stated in the license, provided that the parties to the transfer shall be jointly and severally liable for any violation thereof until such time as the Department approves transfer or issuance of a waste discharge license to the new owner. The Department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

9. Records Retention

All records and information resulting from the monitoring activities required by this license including all records of analyses performed and calibration and maintenance of instrumentation shall be retained for a minimum of three (3) years.

10. 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

(1) 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

(2) known to be hazardous or toxic by the licensee.

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

11. Removed Substances

Solids, sludges, trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of wastewaters shall be disposed of in a manner approved by the Department of Environmental Protection.

12. Bypass of Waste Treatment Facilities

The diversion or bypass of any discharge from facilities utilized by the licensee to maintain compliance with the terms and conditions of this license is prohibited, except (1) where unavoidable to prevent loss of life or severe property damage, or (2) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the terms and conditions of this license. The licensee shall notify the Department of Environmental Protection of each such diversion or bypass in accordance with the procedure specified in paragraph 6 above for reporting non-compliance. It is the duty of the licensee to take all feasible steps to prevent, minimize and mitigate bypasses. If infiltration or inflow of stormwater or groundwater contribute to bypasses, the licensee shall submit to the department for approval, a wet weather flow management plan. The plan shall describe measures implemented to maximize the volume of flow through the treatment facilities and the efficiency of the treatment process. Submission of this plan shall not remove any responsibilities of the licensee pursuant to paragraph 6.

13. Emergency Action--Electric Power Failure

In order to maintain compliance with the effluent limitations and prohibitions of this license, the licensee shall either:

- a. maintain an alternative power source sufficient to operate the wastewater control facilities; or
- b. Halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

14. Spill Prevention and Containment

The licensee shall within six (6) months of the effective date of this license submit to the Department of Environmental Protection a spill prevention plan. Said plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and/or treatment to be practiced.

15. Connection to Municipal Treatment System

All wastewaters designated by the Department of Environmental Protection as treatable in a municipal treatment system will be consigned to a municipal treatment system when said system becomes available. This waste discharge license will automatically expire 90 days after a municipal facility becomes available unless this time is extended by the Department, in writing, for good cause shown.

16. Pretreatment

The licensee shall comply with all Federal Statutes, regulations, and conditions of permits applicable to its discharge of wastewaters, including, but not limited to, those requiring the installation of pretreatment facilities or establishment of pretreatment programs.

DEFINITIONS

FOR THE PURPOSE OF THIS LICENSE THE FOLLOWING SHALL APPLY

- A. Grab Sample: An individual sample collected in a period of less than 15 minutes.
- B. Composite Sample: A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or a lesser period if specified in the section on Monitoring and Sampling) and combined proportional to flow or a sample continuously collected proportionally to flow over the same time period.
- C. Daily Maximum For Concentration: The maximum value not to be exceeded at any time.
- D. Daily Maximum For Quantity: The maximum value not to be exceeded during any day.
- E. Weekly or Monthly Average: The sum of all daily samples measurement or test results made during a week or month divided by the number of tests or measurement made during the respective time period. Exception: bacteriological tests shall be calculated as a geometric mean.
- F. Bypass: The diversion of wastewater, either by act or by design, from any portion of a treatment facility or conveyance system.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

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

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

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

II. JUDICIAL APPEALS

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

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

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

ADDITIONAL INFORMATION

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

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