STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PAUL MERCER
COMMISSIONER

September 1, 2016

Mr. John Foster, P.E.
Director of Public Works
Town of Brunswick
jfoster@brunswickme.org

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102113
Maine Waste Discharge License (WDL) Application #W004308-6C-F-R
Final Permit/WDL

Dear Mr. Foster:

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

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

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

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

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

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc:
Matt Hight, DEP/SMRO Lori Mitchell, DEP/CMRO
Sandy Mojica, USEPA Marelyn Vega, USEPA Olga Vergara, USEPA

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

web site: www.maine.gov/dep

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF BRUNSWICK		)	MAINE POLLUTANT DISCHARGE
BRUNSWICK, CUMBERLAND COUNTY, MAINE		)	ELIMINATION SYSTEM PERMIT
NON-HAZARDOUS WASTE LANDFILL		)	AND
#ME0102113		)	WASTE DISCHARGE LICENSE
#W004308-6C-F-R	**APPROVAL**	)	**RENEWAL**

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, *et seq.*, and applicable rules of the Department of Environmental Protection (Department), the Department has considered the application of the Town of Brunswick (Town), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On March 15, 2016, the Town submitted a timely and complete application to the Department for the renewal of Waste Discharge License (WDL) #W004308-5L-D-R/ Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102113, which was issued on August 12, 2011, for a five-year term. The August 12, 2011, permit authorized the monthly average discharge of 0.30 million gallons per day (MGD) of treated landfill leachate and stormwater from a non-hazardous landfill, to the Androscoggin River, Class C, in Brunswick, Maine.

PERMIT SUMMARY

This permitting action is different from the August 12, 2011 permitting action in that it is:

1. Revising the minimum monitoring frequencies for ά-(alpha) terpineol, benzoic acid, ρ-cresol, total phenol, and total zinc from once per calendar quarter to once per year based on the results of facility effluent monitoring.

CONCLUSIONS

BASED on the findings summarized in the attached Fact Sheet dated July 19, 2016, and subject to the Conditions listed below, the Department makes the following conclusions:

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

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

3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S. § 464(4)(F), will be met, in that:

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

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

   (c) Where the standards of classification of the receiving water bodies are not met, the discharges will not cause or contribute to the failure of the water bodies to meet the standards of classification;

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

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

4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of the TOWN OF BRUNSWICK to discharge up to a monthly average to 0.30 million gallons per day (MGD) of treated landfill leachate and stormwater to the Androscoggin River, Class C, in Brunswick, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.

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

3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit 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) (last amended October 19, 2015)]

DONE AND DATED AT AUGUSTA, MAINE, THIS 1st DAY OF September, 2016.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for PAUL MERCER, Commissioner

Date of initial receipt of application: March 15, 2016

Date of application acceptance: March 15, 2016

Filed
SEP 01 2016
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection _____

This Order prepared by Gregg Wood, BUREAU OF WATER QUALITY

ME0102113 2016 8/22/16

SPECIAL CONDITION

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **treated landfill leachate and stormwater from a non-hazardous waste landfill via Outfall #001A** to the Androscoggin River. Such discharges are limited and must be monitored by the permittee as specified below[1]:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	0.30 MGD *[03]*	--	--	--	5/Week [2a, 2b] *[05/07]*	Measured *[MS]*
BOD_5 *[00310]*	62 lbs./day *[26]*	167 lbs./day *[26]*	37 mg/L *[19]*	140 mg/L *[19]*	Monthly When Discharging[2b] *[MM/DD]*	Grab *[GR]*
TSS *[00530]*	42 lbs./day *[26]*	83 lbs./day *[26]*	27 mg/L *[19]*	88 mg/L *[19]*	Monthly When Discharging[2b] *[MM/DD]*	Grab *[GR]*
Settleable Solids *[00545]*	--	--	0.1 ml/L *[25]*	0.5 ml/L *[25]*	Monthly When Discharging[2b] *[MM/DD]*	Grab *[GR]*
Ammonia (as N) *[61574]*	8.2 lbs./day *[26]*	16.7 lbs./day *[26]*	4,900 µg/L *[28]*	10,000 µg/L *[28]*	Monthly When Discharging[2b] *[MM/DD]*	Grab *[GR]*
Alpha Terpineol *[51045]*	0.03 lbs./day *[26]*	0.05 lbs./day *[26]*	16 µg/L *[28]*	33 µg/L *[28]*	1/Year *[01/YR]*	Grab *[GR]*
Benzoic Acid *[77247]*	0.12 lbs./day *[26]*	0.20 lbs./day *[26]*	71 µg/L *[28]*	120 µg/L *[28]*	1/Year *[01/YR]*	Grab *[GR]*
p-Cresol *[77146]*	0.02 lbs./day *[26]*	0.04 lbs./day *[26]*	14 µg/L *[28]*	25 µg/L *[28]*	1/Year *[01/YR]*	Grab *[GR]*
Phenol, Total *[03604]*	0.02 lbs./day *[26]*	0.04 lbs./day *[26]*	15 µg/L *[28]*	26 µg/L *[28]*	1/Year *[01/YR]*	Grab *[GR]*
Zinc, Total *[01092]*	0.2 lbs./day *[26]*	0.3 lbs./day *[26]*	110 µg/L *[28]*	220 µg/L *[28]*	1/Year *[01/YR]*	Grab *[GR]*
***E. coli* Bacteria**[3a] *[31633] May 15 – Sept 30*	--	--	142/100 ml[3b] *[13]*	949/100 ml *[13]*	Weekly When Discharging[2b] *[07/WD]*	Grab *[GR]*
Total Residual Chlorine [4] *[00665]*	--	--	--	1.0 mg/L *[19]*	Weekly When Discharging[2b] *[07/WD]*	Grab *[GR]*
pH *[00400]*	--	--	--	6.0 – 8.5 SU *[12]*	Weekly When Discharging[2b] *[07/WD]*	Grab *[GR]*

FOOTNOTES: See Pages 5-6 of this permit for applicable footnotes.

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

SPECIAL CONDITIONS

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

2. The permittee must monitor effluent flow from Lagoon Cell #2 (landfill leachate prior to comingling with stormwater in Lagoon Cell #3) as specified below. This monitoring point is assigned **Outfall #100** (internal waste stream) for data management purposes.

	Monthly Total	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow - Total *[82220]*	Report Million Gallons per Month *[80]*	--	--	--	Week Days[2a, 2b] *[05/07]*	Measured *[MS]*

FOOTNOTES:

1. **Sampling** – The permittee must conduct all effluent sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are analyzed by laboratories at waste water treatment facilities licensed pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 C.M.R. 263 (last amended April 1, 2010). 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 this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.

2. **Monitoring conditions** –
   a. Discharge flow monitoring is required five days per week excluding official holidays observed by the Town of Brunswick. For instances when a town holiday occurs during the normal 5-day work week, the Town must provide a comment on the monthly discharge monitoring report to indicate the number of actual sampling events for that week (frequency of analysis cell).

   b. Monitoring is required at the frequency established in Special Condition A, Table 1. In the event that monitoring cannot be conducted because the facility did not discharge wastewater on a normal monitoring day (Tuesday through Saturday) for an entire month, the permittee must enter "NODI-F" ("insufficient flow for sampling") for the entire Discharge Monitoring Report. If there is measurable flow on a normal monitoring day, in a given week or month, monitoring must be conducted according to the minimum required frequency for that parameter. In no case may the permittee take any action that would cause a discharge, with the intent of avoiding the monitoring requirements. It is expected that weather events may cause such discharges that will not be monitored.

SPECIAL CONDITIONS

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

FOOTNOTES:

3. **Bacteria monitoring conditions**

   a. **Bacteria Sampling Location** – Samples collected for permit compliance with the bacteria limitations established herein must be obtained from a point after Lagoon #2 and before Lagoon #3. The sampling location for bacteria may be modified at any time during the term of this permit subject to Department review and written approval.

   b. **Bacteria Reporting** – The monthly average *E. coli* bacteria limitation is a geometric mean limitation and sample results must be reported as such.

4. **Total Residual Chlorine** – Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine-based compounds are being used to disinfect the discharge.

5. **Mercury** – The permittee must conduct all mercury monitoring required by this permit or required to determine compliance with interim limitations established pursuant to 06-096 C.M.R. 519 in accordance with the USEPA's "clean sampling techniques" found in USEPA Method 1669, *Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels*. All mercury analysis must be conducted in accordance with USEPA Method 1631, *Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry*. See **Attachment A** of this permit for a Department report form for mercury test results. Compliance with the monthly average limitation established in Special Condition A of this permit will be based on the cumulative arithmetic mean of all mercury tests results that were conducted utilizing sampling Methods 1669 and analysis Method 1631E on file with the Department for this facility.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the uses designated for the classification of the receiving waters.

2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated for the classification of the receiving waters.

3. The permittee must not discharge effluent that causes visible discoloration or turbidity in the receiving waters or that impairs the uses designated for the classification of the receiving waters.

4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification.

SPECIAL CONDITIONS

C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only: 1) in accordance with the permittee's General Application for Waste Discharge Permit, accepted for processing on March 15, 2016; 2) in accordance with the terms and conditions of this permit; and 3) via Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting*, of this permit.

D. NOTIFICATION REQUIREMENT

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

1. Any substantial change (realized or anticipated) in the volume or character of pollutants being introduced into the wastewater collection and treatment system.

2. For the purposes of this section, adequate notice must include information on:
   a. The quality and quantity of waste water introduced to the wastewater collection and treatment system; and
   b. Any anticipated change in the quality and quantity of the wastewater to be discharged from the treatment system.

3. For the purposes of this section, adequate notice must include information on:

   a. The quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
   b. Any anticipated impact of the change in the quantity or quality of the wastewater to be discharged from the treatment system.

E. MONITORING AND REPORTING

Monitoring results obtained during the previous month must be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department. If you are receiving hard-copy DMR forms by mail, the completed, returned forms must be postmarked on or before the thirteenth (13^{th}) 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 (15^{th}) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein must be submitted to the Department assigned inspector (unless otherwise specified by the Department) at the following address:

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

SPECIAL CONDITIONS

E. MONITORING AND REPORTING (cont'd)

Alternatively, if you are submitting an electronic Discharge Monitoring Report (DMR), the completed DMR 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 DMR 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 DMR must be submitted not later than close of business on the 15th day of the month following the completed reporting period.

F. 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING

By December 31 of each calendar year, the permittee must provide the Department with a certification describing any of the following that have occurred since the effective date of this permit *[ICIS Code 96299]*. See **Attachment B** of the Fact Sheet for an acceptable certification form to satisfy this Special Condition.

1. Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;

2. Changes in the operation of the treatment works that may increase the toxicity of the discharge;

3. Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge;

4. Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge; and

5. Increases in the type or volume of transported (hauled) wastes accepted by the facility.

The Department may require routine testing be established if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

SPECIAL CONDITIONS

G. OPERATIONS AND MAINTENANCE (O&M) PLAN

The permittee must have a current written comprehensive Operation & Maintenance (O&M) Plan for this facility. The plan must specify how the permittee will 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.

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

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

H. REOPENING OF PERMIT FOR MODIFICATION

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

I. SEVERABILITY

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

ATTACHMENT A

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

Purpose of this test:
- ☐ Initial limit determination
- ☐ Compliance monitoring for: year _____ calendar quarter _____
- ☐ Supplemental or extra test

SAMPLE COLLECTION INFORMATION

Sampling Date: ___ ___ ___ (mm dd yy) Sampling time: _____ AM/PM

Sampling Location:

Weather Conditions: _____

Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:

Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:

Suspended Solids _____ mg/L Sample type: _____ Grab (recommended) or _____ Composite

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

Date of analysis: _____ **Result:** _____ **ng/L (PPT)**

Please Enter Effluent Limits for your facility

Effluent Limits: **Average =** _____ ng/L **Maximum =** _____ ng/L

Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.

CERTIFICATION

I certifiy that to the best of my knowledge the foregoing information is correct and representative of conditions at the time of sample collection. The sample for mercury was collected and analyzed using EPA Methods 1669 (clean sampling) and 1631 (trace level analysis) in accordance with instructions from the DEP.

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT B

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

MEPDES#_____Facility Name_____

Since the effective date of your permit, have there been;		NO	YES Describe in comments section
1	Increases in the number, types, and flows of industrial, commercial, or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic?	☐	☐
2	Changes in the condition or operations of the facility that may increase the toxicity of the discharge?	☐	☐
3	Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge?	☐	☐
4	Increases in the type or volume of hauled wastes accepted by the facility?	☐	☐

COMMENTS:

Name (printed): _____

Signature:_____Date: _____

This document must be signed by the permittee or their legal representative.

This form may be used to meet the requirements of Chapter 530.2(D)(4). This Chapter requires all dischargers having waived or reduced toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative, the discharger may submit a signed letter containing the same information.

Scheduled Toxicity Testing for the next calendar year

Test Conducted	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
WET Testing	☐	☐	☐	☐
Priority Pollutant Testing	☐	☐	☐	☐
Analytical Chemistry	☐	☐	☐	☐
Other toxic parameters [1]	☐	☐	☐	☐

Please place an "X" in each of the boxes that apply to when you will be conducting any one of the three test types during the next calendar year.

[1] This only applies to parameters where testing is required at a rate less frequently than quarterly.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **July 19, 2016**

MEPDES PERMIT: **#ME0102113**
WASTE DISCHARGE LICENSE: **#W004308-6C-F-R**

NAME AND ADDRESS OF APPLICANT:

TOWN OF BRUNSWICK
28 Federal Street
Brunswick, Maine 04011

COUNTY: **CUMBERLAND**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

GRAHAM ROAD LANDFILL
Brunswick, Maine 04011

RECEIVING WATER / CLASSIFICATION: **Androscoggin River/Class C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **John A. Foster, P.E.**
Director, Public Works, Town of Brunswick
(207) 725-6654
e-mail: jfoster@brunswickme.org

1. APPLICATION SUMMARY

a. Application: On March 15, 2016, the Town of Brunswick (Town/permittee) submitted a timely and complete application to the Department for renewal of Waste Discharge License (WDL) #W004308-5L-D-R/ Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102113, which was issued on August 12, 2011, for a five-year term. The August 12, 2011, permit authorized the monthly average discharge of 0.30 million gallons per day (MGD) of treated landfill leachate and stormwater from a non-hazardous landfill, to the Androscoggin River, Class C, in Brunswick, Maine.

b. Source Description: The Town owns and operates a municipal landfill commonly referred to as Graham Road Landfill in Brunswick, Maine. Phase 1 of the landfill was constructed in 1984 and the facility has expanded and has remained operational since that time. The facility receives residential and commercial solid wastes and a limited quantity of "special waste" (asbestos-containing materials), as defined by Department rule Chapter 400(1)(Nnn) on a case-by-case basis following Department approvals, that is generated within the Town of Brunswick. The facility does not receive hazardous wastes.

1. APPLICATION SUMMARY (cont'd)

The landfill was constructed with a total of three phases (referred to as phases 1, 2 and 3), and the third phase is subdivided into phases 3A and 3B. Only one cell is active at any given time and phase 3A is currently the active landfill cell.

Phase 1 consists of 7.55 acres of secure landfill area, has been filled to capacity and was closed in July, 1995 through the installation of an intermediate cover system, which consists of high density polyethylene (HDPE) geomembranes. An interface lining system was installed on the west slope face of phase 1 to collect and remove leachate generated by this cell. Phase 2 consists of 3.42 acres of secure landfill area, has been filled to capacity and was closed in October, 2000 through the installation of a geomembrane. An interface lining system was installed on the west slope face of phase 2 to collect and convey leachate generated by this cell to the leachate collection and removal (LCR) system of phase 3A. Phases 3A (3.45 acres) and 3B (2.07 acres) were constructed in 1998. The total combined waste capacity of phases 3A and 3B is approximately 541,500 cubic yards and is projected to have a life of 11 years, assuming a disposal rate of 50,000 cubic yards per year.

A map showing the location of the Graham Road Landfill is included as **Attachment A** of this Fact Sheet.

d. Wastewater Treatment: Wastewater is generated by storm water runoff from the active and inactive landfill phases and by the generation of leachate, which is produced by precipitation falling on the waste, decomposition reactions that occur to the waste within the landfill cell, and from the initial moisture content of the waste at the time of placement. Most of the leachate produced, however, can be attributed to precipitation that comes in contact with the waste. The wastewater collection system consists of primary and secondary leachate collection and removal systems (LCRs). The primary LCR is designed to collect all leachate generated within a landfill cell and consists of perforated HDPE piping on top of the primary HDPE liner which is surrounded by crushed stone and geotextile and a 12-inch layer of sand in phases 1 and 2 and a 12-inch layer of crushed stone in phase 3. The primary LCR conveys wastewater to treatment pond #1 described below. The secondary LCR serves as a leak detection and collection system, and a separate leak detection system exists for each landfill phase. The secondary LCR for phases 1 and 2 is located between the primary and secondary HDPE liners and is independent of the primary LCR. The secondary LCR consists of perforated HDPE pipe surrounded by crushed stone and geotextile and a 12-inch layer of sand on top of an 80 mil HDPE secondary liner. The 6-inch diameter leak detection pipes associated with the secondary LCR collect and transport wastewater to treatment pond #1 described below.

Wastewater generated by precipitation that falls on inactive portions of the landfill drains through crushed stone to a collection pipe system and is transported to treatment pond #3 described below prior to discharge.

The Brunswick Landfill utilizes three onsite facultative wastewater treatment lagoons operated in series to provide treatment of landfill leachate and storm water runoff wastewater. The treatment lagoons were constructed as part of the phase 1 construction in 1983. All three lagoons have a liner system consisting of a 60 mil HDPE liner over 6 inches of sand and 6 inches of clay. The treatment

1. APPLICATION SUMMARY (cont'd)

capacities of the three lagoons are as follows: Lagoon #1: 290,000 cubic feet (2,169,200 gallons); Lagoon #2: 184,000 cubic feet (1,376,320 gallons); and Lagoon #3: 92,500 cubic feet (691,900 gallons). Lagoons #2 and #3 were designed strictly for treatment of leachate. Lagoon #3 is designed as a sedimentation basin for storm water and as a mixing/additional treatment basin for the leachate from Lagoons #1 and #2.

Final treated effluent is conveyed to the Androscoggin River for discharge via a 24-inch diameter PVC outfall pipe designated as Outfall #001A. The pipe is submerged in the river at a location approximately 50 feet from the western shore of the river.

Sediment accumulates in each of the three treatment ponds and must be periodically removed. The Town's consulting engineer informed the Department that the lagoons accumulate sludge at a relatively slow rate with cleaning necessary approximately every ten years.

2. PERMIT SUMMARY

a. Terms and Conditions: **This permitting action is different from the August 12, 2011 permitting action in that it is:**

1. Revising the minimum monitoring frequencies for ά-(alpha) terpineol, benzoic acid, ρ-cresol, total phenol, and total zinc from once per calendar quarter to once per year based on the results of facility effluent monitoring.

b. History: The most current relevant regulatory actions and significant events associated with the Graham Road Landfill include the following.

March 23, 1983 – The Board of Environmental Protection issued conditional approval to the Town to site Phases 1, 2 and 3 of a municipal landfill off the Graham Road in Brunswick and to construct and use only Phase 1 of the landfill.

January 9, 1984 – Phase 1 of the Brunswick Landfill became operational.

October 11, 1991 – The Department issued Solid Waste Order #S-08458-7A-F-N to the Town authorizing the construction and operation of Phases 2 and 3 of the Brunswick Landfill.

May 9, 1994 – The Department issued a water quality certification to the Town certifying that the discharge proposed from the Brunswick Landfill in a pending National Pollutant Discharge Elimination System (NPDES) permit was in compliance with applicable sections of the Federal Water Pollution Control Act and State law.

May 26, 1994 – The U.S. Environmental Protection Agency (USEPA) issued NPDES permit #ME0102113 to the Town for the monthly average discharge of up to 0.1 MGD of treated wastewater (combined leachate and storm water) from the Brunswick Landfill to the Androscoggin River in Brunswick. The 5/26/94 NPDES permit superseded the previous and initial NPDES permit issued on February 12, 1988, and expired on May 26, 1999.

2. PERMIT SUMMARY (cont'd)

February 16, 1995 – The Department issued WDL #W004308-59-B-R to the Town for the continued discharge of an unspecified quantity of treated wastewater (combined leachate and storm water) to the Androscoggin River in Brunswick. This licensing action superseded previous WDL #W4308-59-A-N issued on April 27, 1988, and expired on February 12, 1993.

October, 1997 – The Town initiated a pilot study of a sequencing batch reactor (SBR) at the Brunswick Landfill to enhance wastewater treatment and reduce effluent levels of biochemical oxygen demand and total suspended solids. The study was concluded in December, 1997, and a summary of results was prepared by Woodard & Curran consulting engineers. A report summarizing the findings of the study was received by the Department on November 16, 1998.

December 1, 1998 – The Town submitted an application to the USEPA for renewal of NPDES permit #ME0102113. USEPA did not act on the application prior to January 12, 2001 delegation of the NPDES program to the State.

March 16, 2000 – The USEPA promulgated national effluent guidelines for the discharge of wastewater from non-hazardous subcategory of waste landfills at 40 CFR Part 445.21.

May 23, 2000 – Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and *Waste discharge licenses*, 38 M.R.S. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 C.M.R. 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL #W002648-5L-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 7.4 parts per trillion (ppt) and 5.0 ppt, respectively, and a minimum monitoring frequency requirement of 4 tests per year for mercury.

August 9, 2000 – The Department administratively modified WDL #W004308-59-B-R by establishing interim monthly average and daily maximum concentration limits and monitoring requirements for mercury.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program, and MEPDES permit #ME0102113 has been utilized for the Town's Graham Road Landfill.

November 16, 2004 – The Department issued WDL #W004308-5L-C-R to the Town for a five-year term. The 11/16/04 permit superseded WDL #W004308-59-B-R, which was issued on February 16, 1995 for a five-year term, and WDL #W4308-59-A-N issued on April 27, 1988. It is noted that the 2004 permit contained a schedule of compliance for imposition of new technology-based effluent limitations with an option to submit a request for a variance from the national effluent guidelines promulgated at 40 CFR Part 445.21. The deadline for this compliance schedule item was June 1, 2007. The Town submitted a variance request based on fundamentally different factors on November 6, 2009, which was ultimately denied.

2. PERMIT SUMMARY (cont'd)

August 12, 2011 – The Department issued WDL #W004308-5L-D-R to the Town for a five-year term.

March 15, 2016 – The Town submitted a timely and complete General Application to the Department for renewal of the August 12, 2011 permit. The application was accepted for processing on March 15, 2016, and was assigned WDL # W004308-6C-F-R / MEPDES #ME0102113.

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with 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. § 420 and 06-096 C.M.R. 530 (effective March 21, 2012) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 C.M.R. 584 (effective July 29, 2012), 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

Classification of major river basins, 38 M.R.S. § 467(1)(A)(2) classifies the Androscoggin River at the point of discharge as a Class C waterway. *Standards for classification of fresh surface waters*, 38 M.R.S. § 465(4) describes the standards for Class C waters as follows;

The dissolved oxygen content of Class C water may be not less than 5 parts per million or 60% of saturation, whichever is higher, except that in identified salmonid spawning areas where water quality is sufficient to ensure spawning, egg incubation and survival of early life stages, that water quality sufficient for these purposes must be maintained. In order to provide additional protection for the growth of indigenous fish, the following standards apply.

(1) The 30-day average dissolved oxygen criterion of a Class C water is 6.5 parts per million using a temperature of 22 degrees centigrade or the ambient temperature of the water body, whichever is less, if:

(a) A license or water quality certificate other than a general permit was issued prior to March 16, 2004 for the Class C water and was not based on a 6.5 parts per million 30-day average dissolved oxygen criterion; or

(b) A discharge or a hydropower project was in existence on March 16, 2005 and required but did not have a license or water quality certificate other than a general permit for the Class C water.

(1)This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.

4. RECEIVING WATER STANDARDS (cont'd)

(2) In Class C waters not governed by subparagraph (1), dissolved oxygen may not be less than 6.5 parts per million as a 30-day average based upon a temperature of 24 degrees centigrade or the ambient temperature of the water body, whichever is less. This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.

The department may negotiate and enter into agreements with licensees and water quality certificate holders in order to provide further protection for the growth of indigenous fish. Agreements entered into under this paragraph are enforceable as department orders according to the provisions of sections 347-A to 349.

Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in Class C waters may not exceed a geometric mean of 126 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The board shall adopt rules governing the procedure for designation of spawning areas. Those rules must include provision for periodic review of designated spawning areas and consultation with affected persons prior to designation of a stretch of water as a spawning area.

Discharges to Class C waters may cause some changes to aquatic life, except that the receiving waters must be of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community. This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report, (Report) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists a 17.65-mile reach (Segment ID ME0104000210_425R_01) of the Androscoggin River from its confluence with the Little Androscoggin River to the Pejepscot Dam as, "*Category 4-B: Rivers and Streams Impaired By Pollutants; Pollution Control Requirements Reasonably Expected To Result In Attainment.*" Impairment in the context of Category 4-B refers to a statewide fish consumption advisory due to the presence of dioxin.

Additionally, all freshwaters are listed in *"Category 5-C: Waters Impaired by Atmospheric Deposition of Mercury."* In December 2007, the USEPA approved a Regional Mercury TMDL. Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, *"Impairment caused by atmospheric deposition of mercury; a regional scale TMDL has been approved. Maine has a fish consumption advisory for fish taken from all*

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources."

Pursuant to 38 M.R.S. § 420(1-B)(B), *"a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11."* The Department has established interim monthly average and daily maximum mercury concentration limits and reporting requirements for this facility pursuant to 06-096 C.M.R. 519.

With regard to *"Category 5-D: Rivers and Streams Impaired by Legacy Pollutants,"* impairment in this context refers to legacy polychlorinated biphenyls (PCB) contamination. The Department has no information that the discharge from the Town causes or contributes to this non-attainment status.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Applicability of National Effluent Guidelines: The discharge from the Graham Road Landfill is subject to the technology-based effluent guidelines attainable by the application of best practicable control technology currently available treatment (BPT) promulgated at 40 Code of Federal Regulations (CFR) Part 445, *Landfills Point Source Category*, Subpart B - RCRA Subtitle D *Non-hazardous Waste Landfills*. As was done in the previous permitting action, these effluent guidelines will be utilized to calculate technology-based thresholds applicable to the discharge, which will then be compared against any water quality-based thresholds when establishing numeric effluent limitations.

In developing the technology-based effluent guidelines for the non-hazardous subcategory of waste landfills, the USEPA considered two options: 1) biological treatment consisting of aerated equalization followed by biological treatment; and 2) biological treatment and multimedia filtration consisting of aerated equalization and biological treatment followed by multimedia filtration. The USEPA promulgated guidelines for the non-hazardous subcategory based on the second of these options because of the demonstrated ability of biological treatment systems in controlling organic pollutants and the effectiveness of multimedia filtration in removing total suspended solids. The

USEPA also evaluated reverse osmosis technology as a potential option for establishing best available technology (BAT) effluent limits more stringent than BPT for the control of toxic pollutants. In the end, the USEPA concluded that it should not establish BAT limits based on more stringent treatment technology than the BPT technology. The USEPA concluded that a biological system followed by multimedia filtration would remove the majority of toxic pollutants leaving the single-stage reverse osmosis to treat the very low levels of pollutants that remained. The USEPA ultimately identified seven (7) facilities that met all of the BPT/BAT criteria. These seven facilities employed various types of biological treatment systems including activated sludge, a sequencing batch reactor, aerobic and anaerobic biological towers or fixed film, and aerated ponds or lagoons. The USEPA used data from facilities they believed were representative as having good biological treatment systems to develop the effluent guidelines for biochemical oxygen demand, total suspended solids, ά- (alpha) terpineol, ammonia, benzoic acid, ρ-cresol, phenol, and zinc.

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

b. Flow: The previous permitting action established a monthly average discharge flow limitation of 0.30 MGD based on historic flows from the facility. This permitting action is carrying forward the minimum monitoring frequency requirement of five days per week with a specific exception that monitoring is not required five times per week if the facility is not staffed due to holidays.

The following table summarizes effluent data reported on Discharge Monitoring Reports (DMRs) for the period of September 2011 through February 2016.

Flow (DMRs=54) Outfall #001A

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	0.30	0.00– 0.15	0.042

c. Dilution Factors: Dilution factors associated with the average design flow of 0.30 MGD were derived in accordance with 06-096 C.M.R. 530(4)(A) and were calculated as follows.

Mod. Acute: 1Q10 = 112.6 cfs $\Rightarrow \frac{(112.6 \text{ cfs})(0.6464) + 0.30 \text{ MGD}}{0.30 \text{ MGD}} = 244{:}1$

Acute: 1Q10 = 450.5 cfs $\Rightarrow \frac{(450.5 \text{ cfs})(0.6464) + 0.30 \text{ MGD}}{0.30 \text{ MGD}} = 972{:}1$

Chronic: 7Q10 = 1,715.6 cfs $\Rightarrow \frac{(1{,}715.6 \text{ cfs})(0.6464) + 0.30 \text{ MGD}}{0.30 \text{ MGD}} = 3{,}698{:}1$

Harmonic Mean = 4,382 cfs $\Rightarrow \frac{(4{,}382 \text{ cfs})(0.6464) + 0.30 \text{ MGD}}{0.30 \text{ MGD}} = 9{,}443{:}1$

06-096 C.M.R. 530(4)(B)(1) states,

> *Analyses using numerical acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone and to ensure a zone of passage of at least 3/4 of the cross-sectional area of any stream as required by Chapter 581. Where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design flow, up to and including all of it, as long as the required zone of passage is maintained.*

Department records do not contain sufficient information regarding the mixing characteristics of the effluent with the receiving water to conclude that mixing is complete and rapid. Therefore, the Department is utilizing the default stream flow of ¼ of the 1Q10 in acute evaluations pursuant to 06-096 C.M.R. 530. River flows are based on regulated flows from upstream dams and prorated drainage area contributions using an acceptable model.

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

d. Biochemical Oxygen Demand (BOD_5): The USEPA has promulgated technology-based, monthly average and daily maximum effluent guideline limitations (EGLs) of 37 mg/L and 140 mg/L, respectively, for BOD_5 at 40 CFR Part 445.21. The previous permitting action established monthly average and daily maximum concentration limits of 37 mg/L and 140 mg/L, respectively, for BOD_5 based on the EGLs. The previous permitting action carried forward from the November 16, 2004 permitting action monthly average and daily maximum mass limits of 62 lbs./day and 167 lbs./day, respectively, for BOD_5 to satisfy anti-backsliding requirements at *Waste Discharge License Conditions*, 06-096 C.M.R. 523(5)(l)(2) (effective January 12, 2001). The mass limits were derived using a previous flow limit of 0.20 MGD as follows.

Monthly Average Mass: (37 mg/L)(8.34 lbs./gallon)(0.20 MGD) = 62 lbs./day
Daily Maximum Mass: (100 mg/L)(8.34 lbs./gallon)(0.20 MGD) = 167 lbs./day

This permitting action is carrying forward the monthly average and daily maximum concentration and mass limits of 37 mg/L, 140 mg/L, 62 lbs./day, and 167 lbs./day, respectively, for BOD_5. This permitting action is carrying forward the minimum monitoring frequency requirement of once per month when discharging for BOD_5 based on the compliance record and consideration that the facility experiences periods of no discharge.

A summary of the effluent BOD_5 data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 follows.

BOD_5 Mass (DMRs=52)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	62	0.10 – 76	4.6
Daily Maximum	167	0.10 – 76	5.5

BOD_5 Concentration (DMRs=52)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	37	2 – 59	14.8
Daily Maximum	100	2 – 79	15.7

e. Total Suspended Solids (TSS): The USEPA has promulgated technology-based, monthly average and daily maximum effluent guideline limitations (EGLs) of 27 mg/L and 88 mg/L, respectively, for TSS at 40 CFR Part 445.21. The previous permitting action established monthly average and daily maximum concentration limits of 27 mg/L and 88 mg/L, respectively, for TSS based on the EGLs. The previous permitting action carried forward from the November 16, 2004 permitting action monthly average and daily maximum mass limits of 42 lbs./day and 83 lbs./day, respectively, for TSS to satisfy anti-backsliding requirements at 06-096 C.M.R. 523(5)(l)(2). The mass limits were derived using a previous flow limit of 0.20 MGD and previous monthly average and daily maximum concentration limits of 25 mg/L and 50 mg/L, respectively, for TSS as follows.

Monthly Average Mass: (25 mg/L)(8.34 lbs./gallon)(0.20 MGD) = 42 lbs./day
Daily Maximum Mass: (50 mg/L)(8.34 lbs./gallon)(0.20 MGD) = 83 lbs./day

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

This permitting action is carrying forward the monthly average and daily maximum concentration and mass limits of 27 mg/L, 88 mg/L, 42 lbs./day, and 83 lbs./day, respectively, for TSS. This permitting action is carrying forward the minimum monitoring frequency requirement of once per month when discharging for TSS based on the compliance record and consideration that the facility experiences periods of no discharge.

A summary of the effluent TSS data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 follows.

TSS Mass (DMRs=52)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	42	0.10 – 23	3.0
Daily Maximum	83	0.10 – 30	3.2

TSS Concentration (DMRs=52)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	27	0.60 – 25	10.5
Daily Maximum	88	0.60 – 30	10.8

f. Settleable Solids: The previous permitting action established, and this permitting action is carrying forward, monthly average and daily maximum settleable solids concentration limits of 0.1 ml/L and 0.5 ml/L, respectively, which were based on a Department best professional judgment of best practicable treatment and which have been carried forward in all Department licensing actions since at least the 4/27/88 WDL and in NPDES permits since 5/26/94. The USEPA has not promulgated EGLs for the discharge of settleable solids from non-hazardous waste landfills.

This permitting action is carrying forward the minimum monitoring frequency requirement of once per month when discharging for settleable solids based on the compliance record and consideration that the facility experiences periods of no discharge.

The effluent settleable solids, as reported on the DMRs submitted to the Department for the period September 2011 through February 2016, was <0.1 ml/L 100% of the time. (n = 52).

g. *Escherichia coli* bacteria: The previous permitting action established, and this permitting action is carrying forward, seasonal (May 15-September 30 of each year) monthly average and daily maximum *E. coli* bacteria concentration limits of 142 colonies/100 ml and 949 colonies/100 ml, respectively, based on the State's Water Classification Program criteria for Class C waters.

This permitting action is carrying forward the minimum monitoring frequency requirement of once per week when discharging for *E. coli* bacteria based on the compliance record and consideration that the facility experiences periods of no discharge.

The effluent *E. coli* bacteria, as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 (applicable months only), is as follows.

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

E. coli **bacteria (DMR = 17)**

Value	Limit (col/100 mL)	Range (col/100 mL)	Mean (col/100 mL)
Monthly Average	142	0 – 34	7
Daily Maximum	949	1 – 365	59.4

h. Total Residual Chlorine (TRC): The previous permitting action established a technology-based daily maximum limitation of 1.0 mg/L for TRC. Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that best practicable treatment technology is being applied to the discharge. Department permitting actions impose the more stringent of either the water quality-based or technology-based based limits.

With modified acute (¼ 1Q10) and chronic dilution factors associated with the discharge as calculated above, water quality-based concentration thresholds for the discharge may be calculated as follows.

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated Acute Threshold	Chronic Threshold
0.019 mg/L	0.011 mg/L	244:1 (Mod. A) 3,698:1 (C)	4.6 mg/L	40.7 mg/L

The Department has established a daily maximum BPT-based limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. The daily maximum BPT-based limit of 1.0 mg/L is more stringent than the water quality-based thresholds calculated above and is being carried forward in this permitting action. This permitting action is carrying forward the minimum monitoring frequency requirement of once per week when discharging for TRC based (any time chlorine or chlorine-based compounds are in use for effluent disinfection) based on best professional judgment.

A summary of the effluent TRC data for the period of September 2011 through February 2016 (applicable months only) follows.

Total residual chlorine (DMRs=19)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.02 – 0.80	0.26

i. Ammonia (as N): The USEPA has promulgated technology-based, monthly average and daily maximum effluent guideline limitations (EGLs) of 4.9 mg/L and 10.0 mg/L, respectively, for ammonia (as N) at 40 CFR Part 445.21, which were established as effluent limitations in the previous permitting action, and are being carried forward in this permitting action as the more stringent of either the water quality-based or technology- based limits. The freshwater acute and chronic ambient water quality criteria (AWQC) for ammonia are 24,103 µg/L and 3,007 µg/L, respectively. It is noted that the limits in this permit are expressed in terms of parts per billion for data management purposes (4,900 µg/L and 10,000 µg/L). This permitting action is carrying forward the corresponding monthly average and daily maximum mass limits of 8.2 lbs./day and 16.7 lbs./day, respectively, for ammonia.

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

This permitting action is carrying forward the minimum monitoring frequency requirement of once per month when discharging for ammonia based on the compliance record and consideration that the facility experiences periods of no discharge.

A summary of the effluent ammonia data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 follows.

Ammonia Mass (DMRs=52)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	8.2	0.0 – 18	2.4
Daily Maximum	16.7	0.01 – 18	2.4

Ammonia Concentration (DMRs=52)

Value	Limit (µg/L)	Range (µg/L)	Mean (µg/L)
Monthly Average	4,900	2.10 – 26,300	9,400
Daily Maximum	10,000	2.10 – 26,300	9,396

Based on AWQC for ammonia, withholding 10% (0.10) of the water quality criteria in accordance with 06-096 C.M.R. 530(4)(C), and the applicable dilution factors, acute and chronic water quality-based end-of-pipe (EOP) concentration thresholds for ammonia may be calculated as follows:

Acute

$$\frac{(24{,}103\ \mu g/L)(244)(0.9)}{1{,}000\ mg/\mu g} = 5{,}293\ mg/L$$

Chronic

$$\frac{(3{,}007\ \mu g/L)(3{,}698)(0.9)}{1{,}000\ mg/\mu g} = 10{,}008\ mg/L$$

The technology-based limitations are more stringent than the water quality-based thresholds and are therefore being carried forward as required by 38 M.R.S. § 414-A(1)(D), which provides that the discharge will be subject to effluent limitations that require application of the best practicable treatment.

j. Alpha Terpineol: The USEPA has promulgated technology-based, monthly average and daily maximum EGLs of 0.016 mg/L and 0.033 mg/L, respectively, for ά–terpineol (alpha terpineol) at 40 CFR Part 445.21, which were established as effluent limitations in the previous permitting action, and are being carried forward in this permitting action. Neither the USEPA nor the Department has established ambient water quality criteria for ά–terpineol. It is noted that the limits in this permit are expressed in terms of parts per billion for data management purposes (16 µg/L and 33 µg/L). This permitting action is carrying forward the corresponding monthly average and daily maximum mass limits of 0.03 lbs./day and 0.05 lbs./day, respectively, for ά–terpineol.

This permitting action is revising the minimum monitoring frequency requirement from once per calendar quarter to once per year for ά–terpineol based on effluent monitoring results.

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

A summary of the effluent ά–terpineol data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 indicates that the concentration has been less than 10 µg/L and the maximum mass is less than 0.01 lbs./day 100% of the time (n = 17).

k. Benzoic Acid: The USEPA has promulgated technology-based, monthly average and daily maximum EGLs of 0.071 mg/L and 0.12 mg/L, respectively, for benzoic acid at 40 CFR Part 445.21, which were established as effluent limitations in the previous permitting action, and are being carried forward in this permitting action. Neither the USEPA nor the Department has established ambient water quality criteria for benzoic acid. It is noted that the limits in this permit are expressed in terms of parts per billion for data management purposes (71 µg/L and 12,000 µg/L). This permitting action is carrying forward the corresponding monthly average and daily maximum mass limits of 0.12 lbs./day and 0.20 lbs./day, respectively, for benzoic acid.

This permitting action is revising the minimum monitoring frequency requirement from once per calendar quarter to once per year for benzoic acid based on effluent monitoring results.

A summary of the effluent benzoic acid data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 indicates that the maximum concentration is less than 50 µg/L and the maximum mass is less than 0.02 lbs./day 100% of the time (n = 17).

l. ρ-Cresol: The USEPA has promulgated technology-based, monthly average and daily maximum EGLs of 0.014 mg/L and 0.025 mg/L, respectively, for ρ-cresol at 40 CFR Part 445.21, which were established as effluent limitations in the previous permitting action, and are being carried forward in this permitting action. Neither the USEPA nor the Department has established ambient water quality criteria for ρ-cresol. It is noted that the limits in this permit are expressed in terms of parts per billion for data management purposes (14 µg/L and 25 µg/L). This permitting action is carrying forward the corresponding monthly average and daily maximum mass limits of 0.02 lbs./day and 0.04 lbs./day, respectively, for ρ-cresol.

This permitting action is revising the minimum monitoring frequency requirement from once per calendar quarter to once per year for ρ-cresol based on effluent monitoring results.

A summary of the effluent ρ-cresol data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 indicates that the maximum concentration is less than 5 µg/L and the maximum mass is less than 0.01 lbs./day 100% of the time (n = 17).

m. Total Phenols: The USEPA has promulgated technology-based, monthly average and daily maximum EGLs of 0.015 mg/L and 0.026 mg/L, respectively, for total phenols at 40 CFR Part 445.21, which were established as effluent limitations in the previous permitting action, and are being carried forward in this permitting action. Neither the USEPA nor the Department has established ambient water quality criteria for total phenols. It is noted that the limits in this permit are expressed in terms of parts per billion for data management purposes (15 µg/L and 26 µg/L). This permitting action is carrying forward the corresponding monthly average and daily maximum mass limits of 0.02 lbs./day and 0.04 lbs./day, respectively, for total phenols.

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

This permitting action is revising the minimum monitoring frequency requirement from once per calendar quarter to once per year for total phenols based on effluent monitoring results.

A summary of the effluent total phenols data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 indicates that the maximum concentration is less than 5 µg/L and the maximum mass is less than 0.01 lbs./day 100% of the time (n = 17).

n. pH: The USEPA has promulgated a technology-based pH range limitation of 6.0 – 9.0 standard units (SU) at 40 CFR Part 445.21. The previous permitting action established, and this permitting action is carrying forward, a pH range limitation of 6.0 – 8.5 SU, which had been carried forward in all Department permitting actions since at least the 4/27/88 WDL and in NPDES permits since 5/26/94 to satisfy anti-backsliding requirements.

This permitting action is carrying forward the minimum monitoring frequency requirement of once per week to weekly when discharging for pH based on the compliance record and consideration that the facility experiences periods of no discharge.

A summary of effluent pH data as reported on the monthly DMRs for the period of September 2011 through February 2016 indicates that pH has ranged from 6.7 SU to 9.3 SU during that monitoring period.

o. Total Zinc: The USEPA has promulgated technology-based, monthly average and daily maximum EGLs of 0.11 mg/L and 0.20 mg/L, respectively, for total zinc at 40 CFR Part 445.21, which were established as effluent limitations in the previous permitting action, and are being carried forward in this permitting action. The Department has established acute and chronic ambient water quality criteria of 30.6 µg/L for total zinc. Based on available dilution, the Department has determined that the technology-based limitations for total zinc are significantly more stringent than the water quality-based thresholds. Therefore, the monthly average and daily maximum technology-based zinc limits are being carried forward in this permitting action. It is noted that the limits in this permit are expressed in terms of parts per billion for data management purposes (110 µg/L and 200 µg/L). This permitting action is carrying forward the corresponding monthly average and daily maximum mass limits of 0.2 lbs./day and 0.3 lbs./day, respectively, for total zinc.

This permitting action is revising the minimum monitoring frequency requirement from once per calendar quarter to once per year for total zinc based on effluent monitoring results.

A summary of the effluent total zinc data as reported on the DMRs submitted to the Department for the period September 2011 through February 2016 indicates that the maximum concentration is less than 5 µg/L and the maximum mass is less than 0.01 lbs./day 100% of the time (n = 17).

Based on AWQC for total zinc, withholding 10% (0.10) of the water quality criteria in accordance with 06-096 C.M.R. 530(4)(C), and the applicable dilution factors, acute and chronic water quality-based end-of-pipe (EOP) concentration thresholds for total zinc may be calculated as follows:

Acute

$$\frac{(30.6\ \mu g/L)(244)(0.9)}{1{,}000\ mg/\mu g} = 6.7\ mg/L$$

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

Chronic
$\frac{(30.6\ \mu g/L)(3,698)(0.9)}{1,000\ mg/\mu g} = 101.8\ mg/L$

The technology-based limitations are more stringent than the water quality-based thresholds and are therefore being carried forward as required by 38 M.R.S. § 414-A(1)(D), which provides that the discharge will be subject to effluent limitations that require application of the best practicable treatment.

p. Mercury: Pursuant to 38 M.R.S. § 420 and 38 M.R.S. § 413 and 06-096 C.M.R. 519, the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL #W004308-59-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 4.5 parts per trillion (ppt) and 6.8 ppt, respectively, and a minimum monitoring frequency requirement of 2 tests per year for mercury.

On February 6, 2012, the Department issued a minor revision to the August 12, 2011 permit thereby revising the minimum monitoring frequency requirement from twice per year to once per year pursuant to 38 M.R.S. § 420(1-B)(F). This minimum monitoring frequency is being carried forward in this permitting action.

38 M.R.S. § 420(1-B)(B)(1) provides that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department. A review of the Department's database for calendar years 2009 through 2015 is as follows.

Mercury (n = 11)

Value	Limit (ng/L)	Range (ng/L)	Mean (ng/L)
Monthly Average	4.5	1.12 – 7.80	3.4
Daily Maximum	6.8		

q. Total Phosphorus: Previous permitting action did not establish or evaluate the discharge of phosphorous from this facility. *Waste Discharge License Conditions*, 06-096 C.M.R. 523 (effective January 12, 2001) specifies that water quality based limits are necessary when it has been determined that a discharge has a reasonable potential to cause or contribute to an excursion above any State water quality standard including State narrative criteria.[1] In addition, 06-096 C.M.R. 523 specifies that water quality-based limits may be based upon criterion derived from a proposed State criterion, or an explicit State policy or regulation interpreting its narrative water quality criterion, supplemented with other relevant information which may include: *EPA's Water Quality Standards Handbook, October 1983*, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current USEPA criteria documents.[2]

USEPA's Quality Criteria for Water 1986 (Gold Book) puts forth an in-stream phosphorus concentration goal of less than 0.100 mg/L in streams or other flowing waters not discharging directly to lakes or impoundments, to prevent nuisance algal growth. The use of the 0.100 mg/L

[1] *Waste Discharge License Conditions*, 06-096 CMR 523(5)(d)(1)(i) (effective date January 12, 2001)
[2] 06-096 CMR 523(5)(d)(1)(vi)(A)

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

Gold Book value is consistent with the requirements of 06-096 C.M.R. 523 noted above for use in a reasonable potential (RP) calculation.

Based on the above rationale, the Department has chosen to utilize the Gold Book value of 0.100 mg/L. It is the Department's intent to continue to make determinations of actual attainment or impairment based upon environmental response indicators from specific water bodies. The use of the Gold Book value of 0.100 mg/L for use in the RP calculation will enable the Department to establish water quality based limits in a manner that is reasonable and that appropriately establishes the potential for impairment, while providing an opportunity to acquire environmental response indicator data, numeric nutrient indicator data, and facility data as needed to refine the establishment of site specific water quality based limits for phosphorus. This permit may be reopened during the term of the permit to modify any reasonable potential calculations, phosphorus limits, or monitoring requirements based on new site-specific data.

The Department does not have total phosphorus data from the Graham Road Landfill to characterize the effluent. An assumed value of 2.2 mg/L is being used based on monitoring data from other publicly owned treatment works. For the background concentration in the Androscoggin River, the Department has one test result of 0.015 mg/L collected upstream of the point of discharge in Lisbon, Maine, during the summer of 2014, which will be utilized for reasonable potential calculations for phosphorus. The Department's draft ambient water quality criterion for Class C waters is 33 µg/L(0.033 mg/L) for phosphorus.

Using the following calculation and criteria, the Graham Road Landfill does not have a reasonable potential to exceed either the USEPA's Total P Ambient Water Quality goal of 0.1 mg/L (100 ug/L) for phosphorus for rivers and streams not feeding lakes, or the Department's draft ambient water quality criteria of 0.033 mg/L for phosphorus:

Reasonable Potential Analysis

$$Cr = \frac{QeCe + QsCs}{Qr}$$

Qe = effluent flow	=	0.30 MGD
Ce = effluent pollutant concentration	=	2.2 mg/L
Qs = 7Q10 flow of receiving water	=	1,109 MGD
Cs = upstream concentration	=	0.015 mg/L
Qr = receiving water flow (1,109 MGD + 0.30 MGD)	=	1,109.3 MGD
Cr = receiving water concentration		

$$Cr = \frac{(0.30\ MGD \times 2.2\ mg/L) + (1{,}109\ MGD \times 0.015\ mg/L)}{1{,}109.3\ MGD} = 0.016\ mg/L$$

Cr = 0.016 mg/L < 0.100 mg/L ⇒ **No Reasonable Potential**
Cr = 0.016 mg/L < 0.033 mg/L ⇒ **No Reasonable Potential**

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

Based on this reasonable potential calculation and conclusion that the discharge of treated wastewater from the Graham Road Landfill does not have a reasonable potential to exceed applicable water quality thresholds for phosphorous, this permitting action is not establishing effluent limitations or monitoring requirements for phosphorus.

r. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: 38 M.R.S. § 414-A and 38 M.R.S. § 420 prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. 06-096 C.M.R. 530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. 06-096 C.M.R. 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

06-096 C.M.R. 530(2)(A) specifies the dischargers subject to the rule as:

> *All licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedances of narrative or numerical water quality criteria.*

The permittee discharges industrial process wastewater to surface waters and is therefore subject to the testing requirements of the toxics rule.

06-096 C.M.R. 530(2)(B) categorizes dischargers subject to the toxics rule into one of four levels (Levels I through IV). Level IV dischargers are those dischargers having a chronic dilution factor of 500 to 1 and an effluent flow limitation of less than or equal to 1.0 MGD. The chronic dilution factor associated with the discharge from the permittee is 3,698:1 and the permitted flow is 0.30 MGD; therefore, this facility is considered a Level IV facility for purposes of toxics testing.

06-096 C.M.R. 530(2)(D)(4) states, *"All dischargers having waived or reduced testing must file statements with the Department on or before December 31 of each year describing the following.*

(a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;

(b) Changes in the operation of the treatment works that may increase the toxicity of the discharge; and

(c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge."

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

This permitting action is carrying forward the notification requirement in this permitting action as Special Condition F, pursuant to 06-096 C.M.R. 530(2)(D)(4). This permit provides for reconsideration of testing requirements, including the imposition of certain testing, in consideration of the nature of the wastewater discharged, existing wastewater treatment, receiving water characteristics, and results of testing.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the *Times Record* newspaper on or about March 14, 2016. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits 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 C.M.R. 522 (effective January 12, 2001).

9. DEPARTMENT CONTACTS

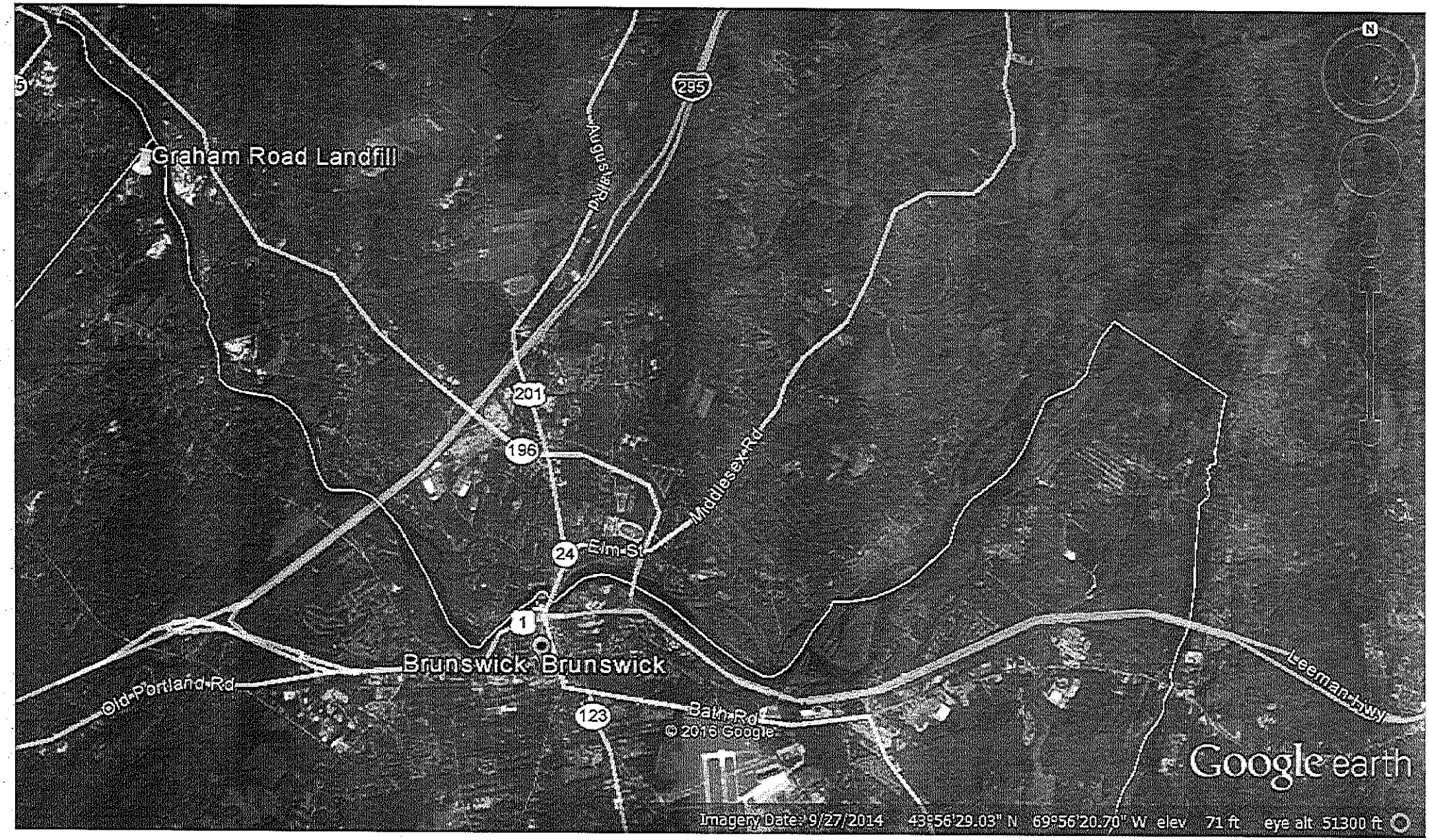
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Gregg Wood
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
Telephone: (207) 287-7693
e-mail: gregg.wood@maine.gov

10. RESPONSE TO COMMENTS

During the period of July 19, 2016, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. 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.

ATTACHMENT A


Graham Road Landfill
295
August Rd
201
196
Middlesex Rd
24
Elm St
1
Brunswick
Brunswick
Old Portland Rd
123
Bath Rd
Lee Mann Hwy
© 2016 Google
Google earth
Imagery Date: 9/27/2014 43°56'29.03" N 69°56'20.70" W elev 71 ft eye alt 51300 ft

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.