



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

November 29, 2010

Mr. Frank Crabtree
Harriman Associates
1 Auburn Business Park
Auburn, ME. 04092

Mr. Russell Brigham, P.E.
Director, Facilities and Transportation
Westbrook School & City
117 Stroudwater Street
Westbrook, ME. 04092

RE: Permit Compliance System Tracking Number #MEU509016
Maine Waste Discharge License (WDL) Application #W009016-5S-B-M
Final License Modification

Dear Mr. Crabtree and Mr. Brigham:

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

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision*." If you have any questions regarding the matter, please feel free to call me at 287-7693 or send me an e-mail at gregg.wood@maine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Wood".

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Stuart Rose, DEP/SMRO Sandy Mojica, USEPA



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

DEPARTMENT ORDER

IN THE MATTER OF

CITY OF WESTBROOK SCHOOL DEPT.)	PROTECTION AND IMPROVEMENT
WESTBROOK, CUMBERLAND COUNTY)	OF WATERS
SURFACE WASTE WATER DISPOSAL)	
SYSTEM)	
MEU509016)	WASTE DISCHARGE LICENSE
W009016-5S-B-M)	MODIFICATION
APPROVAL)	

Pursuant to the provisions of 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered a request by the CITY OF WESTBROOK (Westbrook hereinafter) to modify Waste Discharge License (WDL) #W009016-5S-A-N with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Westbrook submitted a written request to the Department on May 24, 2010, requesting a modification of Maine WDL #W009016-5S-A-N which was issued by the Department on March 31, 2008, for a five-year term.

MODIFICATIONS REQUESTED

Westbrook is requesting the Department modify the 3/31/08 WDL to authorize the use of a surface waste water disposal system (spray irrigation) to spray untreated groundwater and "bleed water" onto three athletic fields at the Westbrook Middle School. The total coverage of the proposed spray irrigation system is approximately 5.0 acres.

LICENSE MODIFICATION SUMMARY

This licensing action establishes, but is not limited to:

- 1) A requirement to measure and record said flows 1/Week and report the weekly average and monthly total flow to the Department via monthly Discharge Monitoring Reports between April 15th – November 31st of each year .

LICENSE SUMMARY (cont'd)

- 2) A spray irrigation application rate of 2 inches/week or 54,300 gallons/acre/week.
- 3) A seasonal (April 15th – November 31st) 1/Month monitoring requirement for total arsenic and pH for water utilized to irrigate the athletic fields.
- 4) A requirement to maintain an up to date Operations and Maintenance (O&M) plan for the spray irrigation system.

CONCLUSIONS

BASED on the findings in the attached **PROPOSED DRAFT** Fact Sheet dated October 28, 2010, and subject to the Conditions listed below, the Department makes the following conclusions:

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

ACTION

THEREFORE, the Department APPROVES the above noted request by the CITY OF WESTBROOK, to modify WDL #W009016-5S-A-N by authorizing the use of geothermal well water to irrigate three athletic fields on the school grounds, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. Standard Conditions of Industrial Waste Discharge Licenses (Revised August 14, 1996), copy attached to WDL #W009016-5S-A-N issued by the Department on March 31, 2008.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All other terms and conditions of WDL #W009016-5S-A-N issued by the Department on March 31, 2008, not modified by this modification remain in effect and enforceable.
4. This modification expires on March 31, 2013, concurrent with WDL #W009016-5S-A-N issued by the Department on March 31, 2008.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of request: May 24, 2010.
Date of request acceptance: June 1, 2010.

This Order prepared by GREGG WOOD, Bureau of Land & Water Quality
MEU509016 MR 2010 11/30/10

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

- Beginning the effective date of this license modification, the licensee is authorized to utilize a surface waste water system (spray irrigation) to spray irrigate untreated geothermal well water and “bleed water” onto three athletic fields on Middle School grounds. The water being sprayed (**OUTFALL #002**) ⁽¹⁾ shall be limited and monitored as specified below.

April – November

	Daily Maximum as specified	Measurement Frequency ⁽²⁾ as specified	Sample Type as specified
Arsenic (Total) <i>[01002]</i>	Report ug/L ⁽³⁾ <i>[28]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
pH <i>[00400]</i>	6.0 – 9.0 S.U. ⁽⁴⁾ <i>[19]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>

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

Footnotes:

See page 6 of this license modification.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

- Beginning the effective date of this license modification, the application of waste water to the land via a spray irrigation system shall be limited to the time frame of **April 15th – November 15th** of each year. The **SPRAY IRRIGATION AREAS** shall each be limited and monitored as specified below.

SI#1 – Southwest of the school building, ~1.7 acres

SI #2 – South of the school building, ~1.3 acres

SI #3 – Northeast of the school building, ~2.1 acres

	Monthly Total as specified	Weekly Maximum as specified	Daily Maximum as specified	Minimum Measurement Frequency As specified	Sample Type as specified
Application Rate (Weekly) ⁽⁵⁾ <i>[51125]</i>	---	54,300 gal/acre/week ⁽⁶⁾ <i>[8B]</i>	---	1/Week <i>[01/07]</i>	Calculate <i>[CA]</i>
Flow - Total Gallons <i>[82220]</i>	Report (Gallons) <i>[80]</i>	---	---	1/Month <i>[01/30]</i>	Calculate <i>[CA]</i>

Footnotes:

See page 6 of this license modification.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes – [Special Condition A(2) & A(3)]

Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

1. **Sampling location**– Sampling shall be conducted such that all samples are representative of the waste water being conveyed to the surface waste water disposal system.
2. **Reporting** – For months when water is not sprayed on the athletic fields via the surface waste water disposal system, the licensee shall check the “NODI-9” (standing for - *No discharge, monitoring not required this monitoring period*) box on the monthly Discharge Monitoring Report (DMR) form.
3. **Arsenic (Total)** - All detectable analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. The Department's most current RL for total arsenic is 5 ug/L but may be subject to revision during the term of this permit. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <X where X is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <X that is greater than an established RL is not acceptable and will be rejected by the Department.
4. **pH** - The pH of the water being utilized for spray irrigation shall not be more than 0.5 standard units outside the source water pH.
5. **Application rate** - A field's daily or weekly application rate is the total gallons sprayed over the applicable period of time divided by the size of the wetted area of the spray-irrigation field in acres or the size in acres of that portion of the field utilized. Note: 27,152 gallons is equivalent to one inch-acre. Weekly is defined as Sunday through Saturday.
6. **Application Rate Reporting** - For Discharge Monitoring Report (DMR) reporting purposes, the licensee shall report the highest daily and weekly application rate for the month in the applicable box on the form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.

SPECIAL CONDITIONS

I. GENERAL OPERATIONAL CONSTRAINTS

1. The spray irrigation facilities shall be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of ground waters which will render them unsatisfactory for usage as a public drinking water supply.
2. The surface waste water disposal system shall not cause lowering of the quality of the ground water, below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to Maine Law 22 M.R.S.A. § 2611.

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

3. The Department shall be notified as soon as the licensee becomes aware of any threat to public health, unlicensed discharge of wastewater, or any malfunction that threatens the proper operation of the system, and action taken to repair/correct, and prevent recurrence. Notification shall be made in accordance with Standard Condition #5 attached to the 3/31/08 license.

J. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS

1. Suitable vegetative cover shall be maintained. Waste water may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff outside the designated boundaries of the spray fields.
2. No waste water shall be applied to the site following a rainfall accumulation exceeding 1.0 inches within the previous 24-hour period. **A rain gauge shall be located on site to monitor daily precipitation.** The licensee shall also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.
3. No waste water shall be applied where there is snow present on the surface of the ground.
4. No waste water shall be applied when there is frost within the upper 10 inches of the soil profile.

SPECIAL CONDITIONS

K. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS

1. **Each day prior to irrigating**, the licensee shall visually inspect the spray irrigation site to determine if the soil moisture conditions are appropriate for spraying and all the operational constraints listed in Special Condition I of this license modification are met.
2. The licensee shall at all times maintain in good working order and operate at maximum efficiency all components of the surface waste water disposal system. The licensee shall periodically check the system for leakage in the piping system and determine if individual spray heads and pump(s) are functioning as designed, and verify that application rates are appropriate for the existing site conditions. Should significant malfunctions or leaks be detected, the licensee must shut down the malfunctioning portion of the spray system and make necessary repairs before resuming operation of the spray system. The licensee shall cease irrigation if runoff is observed outside the designated boundaries of the spray field(s).
3. The licensee shall maintain a weekly log of all spray irrigation operations that records: the date, weather and soil conditions, rainfall, areas irrigated, volume sprayed (gallons), application rates and other relevant observations/comments from daily inspections. The log shall be in accordance with the format of the “*Monthly Operations Log*” provided as **Attachment “A”** of this license.

Weekly spray application rates shall be reported in accordance with the format of the “*Spray Application Report by Week*” provided as **Attachment “B”** of this license.

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

SPECIAL CONDITIONS

L. OPERATIONS AND MAINTENANCE (O & M) PLAN

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

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

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

Spray Application Report by Week

Attachment B

Facility Name _____;

WDL # W009016; (Month _____, Year _____) Weekly Application Rate 54,300 gallons/acre (2.0 inches)

Field Name/#	Effective Spray Area (Acres)	Weekly Limit (Gallons/Acre)	Actual Spray Application Rates (Gallons per Acre)					Number of Exceptions to Weekly Limit	Monthly Average
			Week 1	Week 2	Week 3	Week 4	Week 5		
Note: 1 acre-inch is equivalent to 27,150 gallons of liquid 27,150 gallons per acre is equivalent to 1.0 inch						Total Number of Exceptions			

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

Signature of Responsible Official: _____, Date _____

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **October 28, 2010**

PERMIT COMPLIANCE TRACKING SYSTEM NUMBER: **MEU509016**

LICENSE NUMBER: **W009016-5S-B-M**

NAME AND MAILING ADDRESS OF APPLICANT:

**CITY OF WESTBROOK
Westbrook School Department
117 Stroudwater Street
Westbrook, ME. 04092**

COUNTY: **Cumberland County**

NAME AND ADDRESS OF FACILITY:

**Westbrook Middle School
471 Stroudwater Street
Westbrook, ME.**

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

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Russell Brigham, P.E.
Director, Facilities and Transportation
Westbrook School & City
(207) 854-0800**

1. APPLICATION SUMMARY

The City of Westbrook (Westbrook/licensee hereinafter) submitted a request to the Department on May 24, 2010 requesting a modification of Maine WDL #W009016-5S-A-N which was issued by the Department on March 31, 2008, for a five-year term.

2. MODIFICATIONS REQUESTED

The licensee is requesting the Department modify the 3/31/08 WDL to authorize the use of a surface waste water disposal system (spray irrigation) to spray untreated groundwater and "bleed water" onto three athletic fields at the Westbrook Middle School. The total coverage of the proposed spray irrigation system is approximately 5.0 acres. See **Attachment A** of this license modification for a map depicting the school location and a general layout of the three proposed spray fields.

3. LICENSE MODIFICATION SUMMARY

This licensing action is granting the licensee's modification request and establishes, but is not limited to:

- a) A requirement to measure and record said flows 1/Week and report the weekly average and monthly total flow to the Department via monthly Discharge Monitoring Reports between April 15th – November 31st of each year.
- b) A spray irrigation application rate of 2 inches/week or 54,300 gallons/acre/week.
- c) A seasonal (April 15th – November 31st) 1/Month monitoring requirement for total arsenic and pH for water utilized to irrigate the athletic fields.
- d) A requirement to develop and maintain an up to date Operations and Maintenance (O&M) plan for the spray irrigation system.

4. CONDITIONS OF LICENSES

Maine law, 38 M.R.S.A. Section 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System and ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of the ground waters are maintained and protected.

5. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A § 470 indicates the groundwater at the point of discharge is classified as Class GW-A receiving waters. Maine law, 38 M.R.S.A., §465-C describes the standards for Class GW-A waters as the highest classification of groundwater and shall be of such quality that it can be used for public water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair the usage of these waters, other than occurring from natural phenomena.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

WDL #W009016-5S-A-N issued by the Department on March 31, 2008, established limitations and monitoring requirements based on a proposal from the licensee to dispose of treated ground water "bleed water" from a series of geothermal wells into a sub-surface waste water disposal system. This activity was regulated by the Department via an individual license as test results for the project indicated the ground water from the geothermal wells contained elevated levels of total arsenic. The Department made a best professional judgment that drawing ground water with elevated total arsenic levels from an aquifer hundreds of feet underground and disposing of it into a sub-surface waste water

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

disposal system less than five feet below the surface of the ground, posed a threat to contaminating ground water at or near the surface of the ground. As a result, the 3/31/08 established a total arsenic limit prior to disposal into the sub-surface waste water disposal system equal to the Primary Drinking Water Standard of 10 ug/L. The licensee determined installation of an arsenic treatment system was necessary to meet the limit established.

The licensee has requested the Department modify the above referenced license to authorize a new activity of periodically spray irrigating the athletic fields with untreated geothermal well water during the summer months during extended dry periods. The on-site soils have been determined to be Croghan fine sandy loam, Class B.

- a. Spray fields – The licensee proposes to spray untreated ground water on three athletic fields. For the purposes of this licensing action, Spray Irrigation (SI) field #1 (SI #1) is located southwest of the school building and contains approximately 1.7 acres, SI #2 is located south of the school building contains approximately 1.3 acres and SI #3 is located to the northeast of the school building contains approximately 2.1 acres. See **Attachments A & B** for the location and layout of the irrigation fields.
- b. Application rate – The licensee has requested authorization and the Department is hereby granting an application rate of 2.0 inches/week or 54,300 gallons/acre/week. With approximately 5.0 acres in spray application area, the licensee is authorized to spray up to a total of 271,500 gallons/week. The licensee is required to maintain records and report monthly, how much and where the water was utilized. See Special Condition A(2) and Attachments A & B of this license modification for recording keeping and reporting requirements.
- c. pH and Total Arsenic - In each month in which water is spray irrigated, the licensee is required to sample and report test results for pH and total arsenic. The pH range limitation is based on a National Secondary Drinking Water Standard and is also being established to prevent leaching of metals presently sequestered in the in-situ-soils. Total arsenic is being established as a “Report” only requirement given the infrequent application of the water to the athletic fields. Should test results indicate a elevated arsenic results are trending upward, this license may be reopened pursuant to Special Condition G, *Reopening of Licenses For Modification*, of the 3/31/08 licensing action to establish limitations or additional monitoring requirements.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft licenses shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

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

Gregg Wood
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
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 October 27, 2010, through the date of issuance of this license, the Department solicited comments on the proposed draft WDL for the discharge from the licensee's facility. The Department did not receive comments from the licensee, state or federal agencies, or interested parties that resulted in any substantive change(s) in the terms and conditions of the license. Therefore, the Department has not prepared a Response to Comments.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

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

II. APPEALS TO MAINE SUPERIOR COURT

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

ADDITIONAL INFORMATION

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

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