



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

October 2, 2012

Mr. Cory Seekins
Moore's Septic, Inc.
1426 Swan Lake Avenue
Swanville, ME. 04915

RE: Permit Compliance System (PCS) #MEU508259
Maine Waste Discharge License (WDL) Application #W008259-5J-A-N
Final License

Dear Mr. Seekins:

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

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

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

Sincerely,

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

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

Enc.

cc: Denise Behr, DEP/EMRO
Sandy Mojica, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
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 04769-2094
(207) 764-6477 FAX: (207) 764-1507

web site: www.maine.gov/dep



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

DEPARTMENT ORDER

IN THE MATTER OF

MOORE'S SEPTIC, INC.)	PROTECTION AND IMPROVEMENT
BELFAST, WALDO COUNTY, MAINE)	OF WATERS
SURFACE WASTE WATER DISPOSAL SYSTEM)	
MEU508259)	WASTE DISCHARGE LICENSE
W008259-5J-A-N)	NEW
APPROVAL)	

Pursuant to the provisions of *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the MOORE'S SEPTIC, INC. (licensee hereinafter) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The license has submitted an application to the Department for a new Maine Waste Discharge License (WDL) for the operation of a surface waste water disposal (spray-irrigation) system. The system will dispose of treated waste waters from a septage dewatering operation onto a 3-acre parcel of land in Belfast, Maine. The facility has been assigned number MEU508259 for tracking compliance in the Department's permit compliance system (PCS) as well as a WDL number of #W008259-5J-A-N.

LICENSE SUMMARY

This licensing action;

- 1) Establishes numeric limitations and monitoring requirements of the treated waste water prior to being applied to the surface of the ground via a spray irrigation operation.
- 2) Establishes ground water quality monitoring requirements to determine compliance with drinking water standards for the ground water beneath the spray irrigation site.
- 3) Establishes numerous operational constraints to prevent waste water from migrating off the licensee's property and ensure the waste water is receiving best practicable treatment.
- 4) Requires the licensee to maintain records of monitoring results, application rates and the results of periodic site inspections.
- 5) Requires the licensee to maintain a current written Operations and Maintenance (O&M) Plan.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 27, 2012, and subject to the conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower 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, *Classification of Maine waters*, 38 M.R.S.A. § 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 natural resource, that water quality will be maintained and protected;
 - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering of 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 discharge will be subject to effluent limitations, which require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of MOORE'S SEPTIC, INC. to operate a surface wastewater disposal (spray irrigation) system. Said WDL authorizes the licensee to utilize the spray irrigation/snow-making system to dispose of treated process waste water onto a 3-acre parcel of land. Spray irrigation operations will be limited to the period of April 1 – November 15 (weather permitting) of each year SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. *Standard Conditions of Approval for POTW Waste Discharge Licenses*, revised July 16, 1996, copy attached.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. This license becomes effective upon signature and expires five (5) years after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the license, the terms and conditions of this license and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

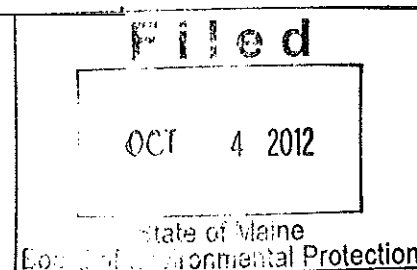
DONE AND DATED AT AUGUSTA, MAINE, THIS 3RD DAY OF October 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for Patricia W. Aho, Commissioner

Date of initial receipt of application August 18, 2012

Date of application acceptance August 18, 2012



Date filed with Board of Environmental Protection _____

This Order prepared by GREGG WOOD, BUREAU OF LAND AND WATER QUALITY

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. The licensee is authorized to operate a surface wastewater treatment and disposal system. The **WASTE WATER TREATMENT EFFLUENT (OUTFALL #001)** shall be limited and monitored as specified below⁽¹⁾.

EFFLUENT CHARACTERISTIC	DISCHARGE LIMITATIONS		MINIMUM MONITORING REQUIREMENTS	
	Daily <u>Minimum</u> as specified	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Biochemical Oxygen Demand [00310]		100 mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
Total Suspended Solids [00530]		100 mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
Nitrate-Nitrogen [00620]		Report mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
PH (Standard Units) [00400]		Report S.U. [12]	1/Month ⁽²⁾ [01/30]	Grab [GR]
<u>Metals (Total)</u> : Arsenic, Cadmium, Chromium, Copper, Lead, Nickel and Zinc [01002, 01027, 01034, 01042, 01051, 01067, 01092]		Report ug/L [28]	1/Year [01/YR]	Grab [GR]

The italicized numeric values bracketed in the table above and on the following pages are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs).

Footnotes are included on Pages 7 and 8.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

2. The application of waste water to the land via a **SPRAY IRRIGATION SYSTEM** shall be limited to the time period
April 1 to November 15 of each calendar year

April 1 to November 15

EFFLUENT CHARACTERISTIC		DISCHARGE LIMITATIONS		MINIMUM MONITORING REQUIREMENTS	
	Monthly <u>Total</u> as specified	Weekly <u>Maximum</u> ⁽³⁾ as specified	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Application Rate [51125]	—	162,900 gal/week [8B]	—	1/Week [01/07]	Calculate [CA]
Flow - Total Gallons [51500]	Report (Gallons) [57]	—	—	1/Month [01/30]	Calculate [CA]

Footnotes are included on Pages 7 and 8.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. **GROUNDWATER MONITORING WELL MW-1** shall be limited and monitored as specified below.

MW-1 – Located in the south westerly corner of the spray irrigation site. See **Attachment C** of the Fact Sheet.

MONITORING CHARACTERISTIC	LIMITATIONS	MINIMUM MONITORING REQUIREMENTS	
	Daily Maximum as specified	Measurement Frequency as specified ⁽⁵⁾	Sample Type as specified
Depth to Water Level Below Land Surface [72019]	Report (feet) ⁽⁴⁾ [27]	3/Year [03/YR]	Measure [MS]
Nitrate-Nitrogen [00620]	10 mg/L [19]	3/Year [03/YR]	Grab [GR]
Specific Conductance ⁽⁶⁾ [00095]	Report (umhos/cm) [11]	3/Year [03/YR]	Grab [GR]
Temperature ⁽⁶⁾ [00011]	Report (°C) [04]	3/Year [03/YR]	Grab [GR]
PH (Standard Units) ⁽⁶⁾ [00400]	Report (S.U.) [12]	3/Year [03/YR]	Grab [GR]
Total Suspended Solids [00530]	Report (mg/L) [19]	3/Year [03/YR]	Grab [GR]
Metals (Total): Arsenic, Cadmium, Chromium, Copper, Lead, Nickel and Zinc [01002, 01027, 01034, 01042, 01051, 01067, 01092]	Report ug/L [28]	1/Year [01/YR]	Grab [GR]

Footnotes are included on Pages 7 and 8

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes:

1. **Sampling** – Sampling and analysis must be conducted in accordance with; a) methods approved in 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 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).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **Waste water treatment effluent sampling** – In the event that no waste water is disposed of via the spray irrigation for an entire month, the licensee is not required to conduct effluent monitoring as otherwise required in Special Condition A(1) of this license.
3. **Weekly Maximum for Spray Irrigation** – "Weekly" is defined as Sunday through Saturday. The licensee shall measure the flow of waste water conveyed to the spray irrigation field by a method that is acceptable to the Department. For Discharge Monitoring Report (DMR) reporting purposes, the licensee shall report the highest weekly application rate for the month in the applicable box on the form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.
4. **Depth to Water Level** – Depth to water level shall be measured to the nearest one-tenth (1/10th) of a foot as referenced from the surface of the ground at the base of the monitoring well.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes:

5. **Ground Water Monitoring Period** – With the exception of metals, monitoring wells shall be sampled during the months of **May, July and October** of each year; unless otherwise specified by the Department. Sampling for metals shall be conducted in the month of **October**.
6. **Field Measurements** – Specific conductance (calibrated to 25.0° C), temperature, and pH are considered to be “field” parameters, and are to be measured in the field via instrumentation. The licensee is required to test for these parameters whether waste water was disposed of via the spray-irrigation system or not.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain materials in concentrations or combinations which would impair the uses designated by the classification of the ground water.
2. The effluent must not lower the quality of any classified body of water (ground water is a classified body of water under Title 38, Section 465-C) below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

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

D. AUTHORIZED DISCHARGES

The licensee is authorized to discharge treated waste water only in accordance with the terms and conditions of this WDL and only to the disposal fields identified in the August 17, 2012. Waste Discharge License application submitted to the Department. Discharge of waste water to any other location or from sources other than those indicated on said application requires written authorization from the Department.

SPECIAL CONDITIONS

E. NOTIFICATION REQUIREMENT

In accordance with Standard Condition #6 of this license, the licensee shall notify the Department of the following.

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system.
2. For the purposes of this section, adequate notice shall 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.

F. GENERAL OPERATIONAL CONSTRAINTS

1. All waste water shall receive treatment through a properly designed, operated and maintained waste water treatment system prior to land application.
2. The spray-irrigation facilities shall be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of ground water which will render it unsatisfactory for usage as a public drinking water supply.
3. The spray irrigation system shall not cause the lowering of the quality of the ground water, as measured in the ground water monitoring wells specified by this license, 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 that ground water monitoring results indicate lowering of the existing groundwater quality, the licensee may be required to take immediate remedial action(s), which may include but not limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, ground water remediation, or ceasing operation of the system until the groundwater attains applicable standards.
4. The Department shall be notified as soon as the licensee becomes aware of any threat to public health, unlicensed discharge of waste water or any malfunction that threatens the proper operation of the system. Notification shall be made in accordance with the attached Standard Condition #4 of this license.
5. The licensee shall maintain a file on the location of all system components and relevant features. Each component shall be mapped and field located sufficiently to allow adequate inspections and monitoring by both the licensee and the Department.
6. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells shall be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports.

SPECIAL CONDITIONS

G. 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 field.
2. At least 10 inches of separation from the ground surface to the ground water table shall be present prior to spray irrigating. There shall be no runoff outside the designated spray field boundaries as a result of operation of the spray system.
3. No waste water shall be applied to the spray irrigation zones following a rainfall accumulation exceeding 1.0 inch 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.
4. No waste water shall be applied to the spray irrigation zones where there is more than 0.5 inches of snow present on the surface of the ground.
5. No waste water shall be applied to the spray irrigation zones when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
6. No traffic or equipment shall be allowed in the spray-irrigation or snowmaking fields except where installation occurs or where normal operations and maintenance are performed.

H. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS

1. **Prior to the commencement of spray irrigation for the season**, the licensee shall notify the Department's compliance inspector that they have verified that site conditions are appropriate (frozen ground, soil moisture etc) for spray irrigation.
2. The permittee shall maintain the equivalent of one ground water level inspection well per spray field to verify that 10 inches of separation from the ground surface to the observed groundwater level is present prior to spraying. Depths to ground water shall be recorded on **Attachment A** of this license.
3. The licensee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities. Should significant malfunctions or leaks be detected, the licensee must shut down the malfunctioning portion of the spray irrigation and make necessary repairs before resuming operation. The licensee shall cease irrigation if runoff is observed outside the designated boundaries of the spray field(s).

H. SPRAY IRRIGATION OPERATIONAL PROCEDURES, LOGS AND REPORTS

4. The licensee shall maintain a daily log of all spray irrigation which records, the date, weather and soil conditions, rainfall, areas irrigated, volume sprayed (gallons), application rates (daily and weekly), and other relevant observations/comments from daily inspections. The log shall be in accordance with the format similar to the "*Monthly Operations Log*" provided as **Attachment A** to this license.

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

The *Monthly Operations Log and Spray Application Report by Week* 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.

I. VEGETATION MANAGEMENT

1. The licensee shall remove shrubs and trees if necessary so as not to impair the operation of the spray-irrigation system, ensure uniform distribution of waste water over the desired application area and to optimize nutrient uptake and removal.
2. The vegetative buffer zones along the perimeter of the site shall be maintained to maximize vegetation and forest canopy density in order to minimize off-site drift of spray.

J. INSPECTIONS AND MAINTENANCE

The licensee shall periodically inspect all system components to ensure the facility is being operated and maintained in accordance with the design of the system. Maintenance logs shall be maintained for each major system component including pumps, pump stations, septic tanks, lagoons, spray apparatus, and pipes. At a minimum, the logs shall include the unique identifier [Special Condition F(6)], the date of maintenance, type of maintenance performed, names or person performing the maintenance, and other relevant system observations.

K. GROUND WATER MONITORING WELLS

1. All monitoring wells shall be equipped with a cap and lock to limit access and shall be maintained in a secured state at all times. The integrity of the monitoring wells shall also be verified annually.
2. The Department reserves the right to require increasing the depth and or relocating any of the groundwater monitoring wells if the well is perennially dry or is determined not to be representative of groundwater conditions.

SPECIAL CONDITIONS

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

On or before December 31, 2012, (*PCS Code 91499*) the permittee shall submit to the Department for review and approval, a written comprehensive Operation & Maintenance (O & M) Plan. The plan shall provide a systematic approach by which the licensee shall at all times, properly operate and maintain all facilities and the systems of treatment and control (and related appurtenances) which are installed or used by the licensee to achieve compliance with the conditions of this license.

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

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

M. DISPOSAL OF TRANSPORTED WASTE IN WASTEWATER TREATMENT FACILITY

The licensee is prohibited from accepting transported wastes for disposal into any part or parts of the wastewater disposal system unless this license is amended by the Department and the transported waste is incorporated into the treatment waste stream in a manner consistent with Department Chapter 555 regulations *Standards for the Addition of Transported Wastes to Wastewater Treatment Facilities*. Transported wastes means any liquid non-hazardous waste delivered to a wastewater treatment facility by a truck or other similar conveyance that has different chemical constituents or a greater strength than the influent described on the facility's application for a waste discharge license.

N. MONITORING AND REPORTING

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

Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, ME. 04401

SPECIAL CONDITIONS

N. MONITORING AND REPORTING (cont'd)

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

O. REOPENING OF LICENSE MODIFICATIONS

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

P. SEVERABILITY

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

Attachment A

Monthly Operations Log

Moore's Septic, Inc. (WDL #W008259)

(Month/Year) _____

Spray Zone # _____

Weekly Application Rate: _____ gallons/week

A	B	C	D	E	F	G
Date	Precipitation Previous 24 hours (inches)	Air Temp (°F)	Weather	Wind- Direction Speed (mph)	Depth To GW in Observation well (inches)	Total Gallons Pumped (gallons)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
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27						
28						
29						
30						
31						

Signature of Responsible Official: _____ Date _____

Attachment B

Spray Application Report by Week

Moore's Septic, Inc. (WDL #W008259)

(Month/Year) _____

Spray Zone #	Weekly Limit (Gallons/Week)	Spray Application Rates					Monthly Total
		(Gallons/Week)					
		Week 1	Week 2	Week 3	Week 4	Week 5	

Signature of Responsible Official: _____ Date _____

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: August 27, 2012

PERMIT COMPLIANCE TRACKING SYSTEM NUMBER: MEU508259
WASTE DISCHARGE LICENSE NUMBER: W008259-5J-A-N

NAME AND MAILING ADDRESS OF APPLICANT:

MOORE'S SEPTIC, INC.
Attn: Mr. Cory Seekins
1426 Swan Lake Ave.
Swanville, ME. 04915

COUNTY: Waldo County

NAME AND ADDRESS OF FACILITY:

Back Searsport Road
Belfast, ME. 04915

RECEIVING WATER/ CLASSIFICATION: Groundwater /Class GW-A

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

Mr. Cory Seekins
(207) 338-4586
cory@mooressepticinc.com

1. APPLICATION SUMMARY

- a. Application: Moore's Septic, Inc. (licensee hereinafter) has submitted an application to the Department for a new Maine Waste Discharge License (WDL) for the operation of a surface waste water disposal (spray-irrigation) system. The system will dispose of treated process waste waters from a septage dewatering operation onto a 3-acre parcel of land in Belfast, Maine. The facility has been assigned number MEU508259 for tracking compliance in the Department's permit compliance system (PCS) as well as a WDL #W008259-5J-A-N. See **Attachment A** of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description and Waste Water Treatment: The licensee operates a septage dewatering facility at a site off of the Back Searsport Road in Belfast. The septage that is brought into the screen tank, and not land applied, is pumped from the screen tank to a dewatering box. The septage is treated with a polymer to separate the solid from the water. The water is captured in a series of 4 tanks in the ground, the first tank being a small tank that catches some of the settling. The second and third tanks are larger steel tanks that have diffusers in the bottom for aeration. The fourth tank is a 24,000 gallon concrete holding facility that is covered with a roof and is also aerated. Typically, the licensee processes between 18,000 and 22,000 gallons at a time. After 24 hours of aeration in the fourth tank, the effluent has historically been transported to the treatment plant in Belfast for final disposal. Each batch of effluent is sampled and tested at the licensee's treatment plant for TSS and BOD levels. Daily logs are maintained for the dewatering operation and are submitted to the Department annually, as well as test results of the sludge and effluent. The biosolids that are created by the dewatering process are stored on a concrete pad and then transported to Soil Prep in Plymouth, Maine. Any leachate from the concrete pad drains into our adjacent lagoon through a floor drain pipe. See **Attachment B** of this Fact Sheet for a schematic of the new waste water treatment facility.

The licensee is proposing to seasonally spray irrigate the effluent that is currently trucked to the wastewater treatment plant in Belfast. The effluent has consistently had a BOD and TSS of between 20-30 mg/l for the last 8 years. The treated waste water will be spray irrigated onto an adjacent 3-acre parcel of land. Current operations would require a spray irrigation volume of between 60,000 and 70,000 gallons per week on the 3-acre parcel of land (1 wooded acre and 2 acres of hayfields). The spray irrigation system will provide for an even distribution of effluent over the area in such a way that will prevent soil erosion and/or channelized runoff. An agreement will be maintained with the Belfast Wastewater Treatment Plant to accept the treated waste water as a contingency should the facility encounter unfavorable weather conditions or equipment breakdowns. **Attachment C** of this Fact Sheet illustrates the layout of the proposed spray site.

A Class A soil survey was conducted on the proposed 3-acre spray site by certified soil scientist and determined the wooded acre is predominately a Tunbridge soil series. Tunbridge soils are moderately well drained to well-drained glacial till soils with a depth to ledge of 30"- 46" and a seasonal high water table at 30". The 2-acre field is predominately a Nicholville soils series that are deep lacustrine sediments, are moderately well drained, with a depth to bedrock of more than 60 inches with a seasonal high water table of 18".

Monitoring of ground water will be achieved through a monitoring well placed down gradient slope from the spray irrigation field. The monitoring well will be equipped with a cap lock and maintained in a secured state at all times and the integrity of the monitoring well to be verified annually.

3. CONDITIONS OF LICENSE

Maine law, 38 M.R.S.A. Section 414-A, requires that the effluent limitations prescribed for discharges require application of best practicable treatment and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System.

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A § 470 indicates the ground water 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 ground water and shall be of such quality that it can be used for public water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair the usage of these waters, other than occurring from natural phenomena.

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Monitoring Parameters – Effluent monitoring (prior to disposal via spray irrigation) established in this licensing action are biochemical oxygen demand (BOD₅), total suspended solids (TSS), nitrate-nitrogen, pH, and certain metals (arsenic, cadmium, chromium, copper, lead, nickel, and zinc). Monitoring for these parameters yields an indication of the effectiveness of the waste water treatment process and the condition of the waste water being applied. Effluent monitoring for all parameters except the metals shall be conducted monthly. Monitoring the effluent for the specified metals is only required in October of each year. Ground water quality monitoring is required three times per year (3/Year) in the months of May, July and October whether or not spray irrigation/snowmaking occurs.
 1. Biochemical Oxygen Demand (BOD) - Monitoring for BOD from the waste water treatment process yields an indication the condition of the waste water being applied to the surface of the ground and the degree of loading of organic material. The limit of 100 mg/L established in this license for the effluent from the waste water treatment facility is a Department best professional judgment (BPJ) of best practicable treatment (BPT) for spray irrigation facilities.
 2. Total Suspended Solids (TSS) - Monitoring for TSS from the waste water treatment process yields an indication of the effectiveness of the waste water treatment system in removing solids. Monitoring for TSS in the groundwater yields an indication of the integrity of the monitoring wells. As with BOD, the limit of 100 mg/L established in this license for effluent from the waste water treatment facility is a BPJ of BPT for spray irrigation facilities.

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

3. Nitrate-nitrogen. Nitrogen compounds are by-products of the biological breakdown of ammonia which is expected to be found in the waste water to be land applied. Because nitrate-nitrogen is weakly absorbed by soil, it functions as a reliable indicator of contamination from waste-disposal sites. Elevated levels of nitrate-nitrogen in the drinking water supply are of human health concern. The limit of 10 mg/L established in this license is based on the National Primary Drinking Water Standard
4. Specific Conductance, Temperature and PH are considered to be "field" parameters meaning that they are measured directly in the field via instrumentation and does not require laboratory analysis. Low pH waste waters applied to the surface of the ground may lend itself to the leaching of bound metals in the in-situ soils and then convey the metals to the groundwater. These parameters are considered surveillance level monitoring parameters that are used as an early-warning indicator of potential groundwater contamination.
6. Metals – Monitoring for metals in the effluent from the waste water treatment facility and the ground water are being required as surveillance level monitoring parameters and will be used as an early-warning indicator of potential groundwater contamination.
- b. Spray Irrigation Application Rates – This licensing action is establishing a quantity of treated waste water to be seasonally disposed of via the spray irrigation field based on a general application rate of 2.0 inches/acre/week which is equivalent to 54,304 gallons/acre/week which is equivalent to 162,900 gallons/week over the entire 3-acre site. This will provide the licensee with the flexibility to more effectively apply more to the treated waste water to the better performing soils and apply less to soils not performing as expected due to any inclusions within the spray site.

Application rates and uniformity of application change over time as equipment gets older and components wear, or if the system is operated differently from the assumed design. Operating below design pressure greatly reduces the coverage diameter and application uniformity resulting in the potential for ponding. For these reasons, the licensee should field calibrate their equipment on a regular basis to ensure proper application and uniformity, and when operating conditions are changed from the assumed design.

- c. Ground Water Monitoring Wells: Because the spray site is relatively small, only one ground water quality monitoring well (designated as MW-1) is being proposed. The well will be located southwest and downgradient of the sprayfield. See **Attachment C** of this Fact Sheet.

6. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

7. PUBLIC COMMENTS

Public notice of this application was made in *Republican Journal* newspaper on or about August 16, 2012. 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 CMR 522 (effective January 12, 2001).

8. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7693 Fax: (207) 287-3435
e-mail: gregg.wood@maine.gov

9. RESPONSE TO COMMENTS

During the period August 27, 2012 through the issuance date of the license, the Department solicited comments on the proposed draft license for the licensee'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 license. Therefore, the Department has not prepared a Response to Comments.

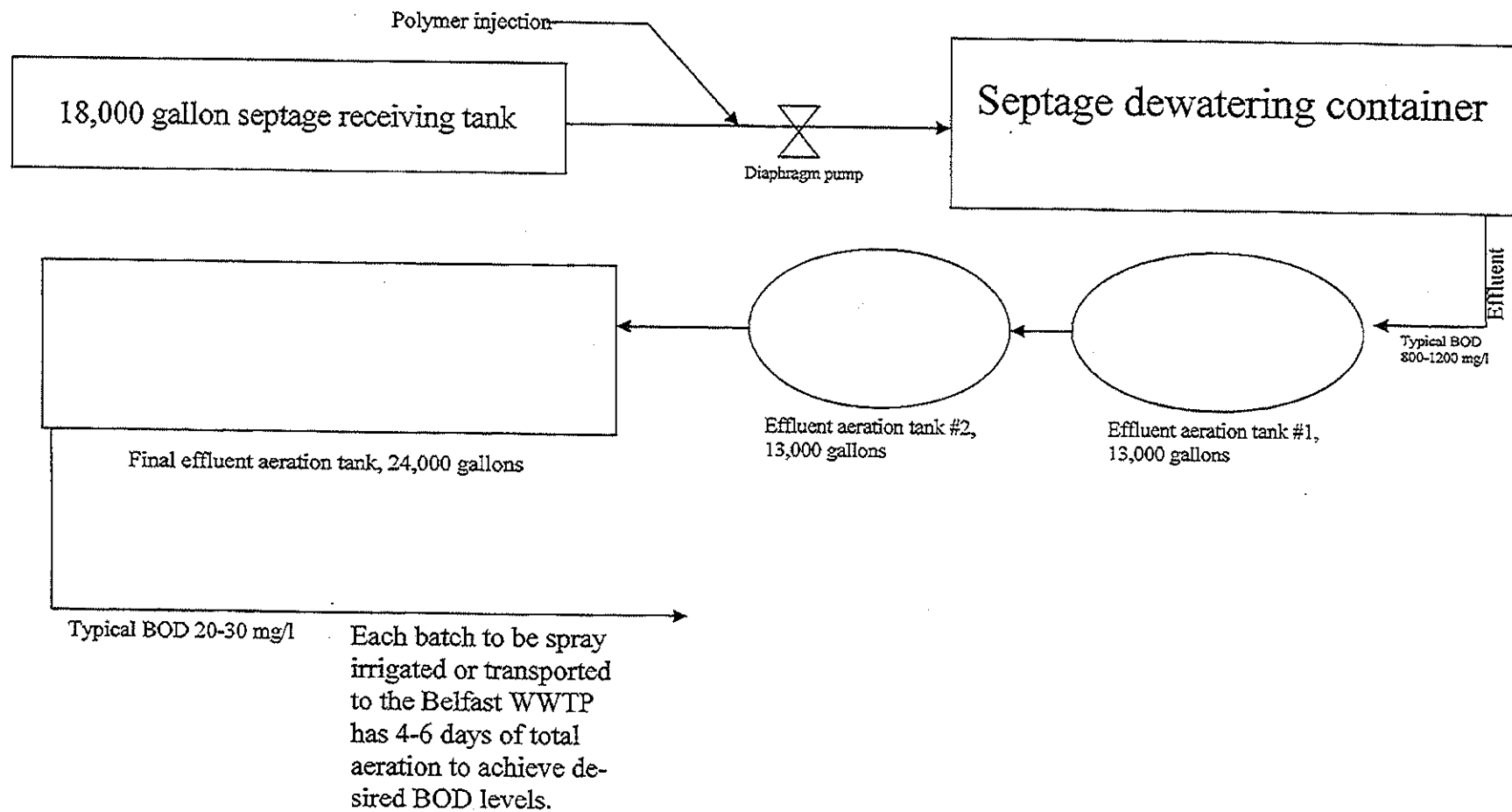
ATTACHMENT A



ATTACHMENT B

Moore's Septic Inc. septage dewatering schematic

Exhibit #6

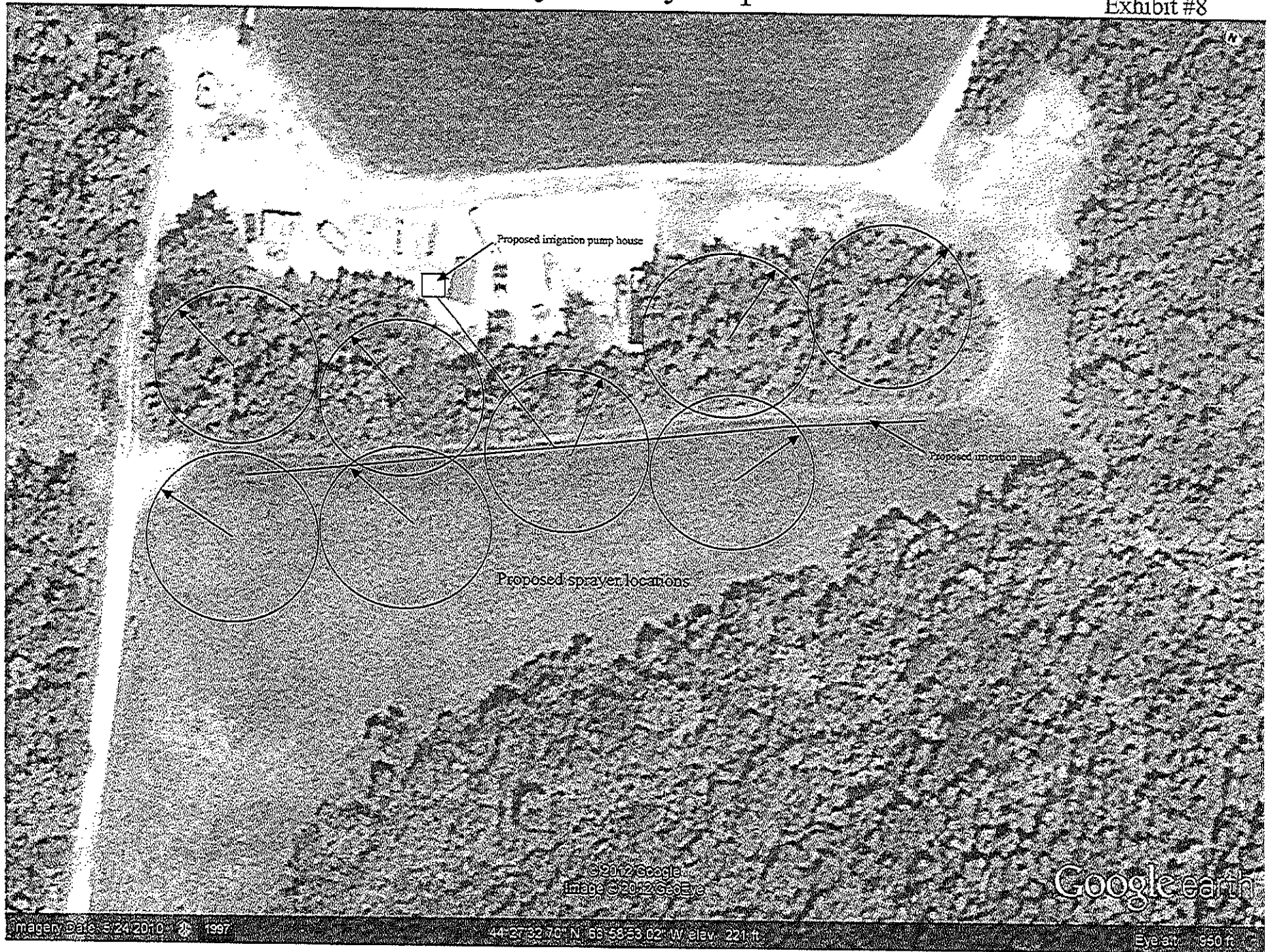


ATTACHMENT C



Distribution system layout plan

Exhibit #8



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

1. General Conditions

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

2. Treatment Plant Operator

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

3. ~~Disinfection~~

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

4. Wastewater Treatment and Sampling Facilities

- a. The licensee shall collect all waste flows designated by the Department of Environmental Protection as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- b. The licensee shall at all times maintain in good working order and operate at maximum efficiency all wastewater collection, treatment and/or control facilities.
- c. All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
- d. Final plans and specifications must be submitted to the staff of the Department of Environmental Protection and approved prior to the construction or modification of any treatment facilities.
- e. The licensee shall install flow measuring facilities of a design approved by the Department of Environmental Protection.
- f. The licensee must provide an outfall of a design approved by the Department of Environmental Protection which is placed in the receiving waters in such a manner that maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

5. Monitoring and Reporting

a. Representative Sampling

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

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

c. Reporting

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

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

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

d. All reports shall be signed by:

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

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

6. Non-Compliance Notification

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

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

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

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

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

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

7. Change of Discharge

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

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

8. Transfer of Ownership

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

9. Records Retention

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

10. Other Materials

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

a. They are not

(1) designated as toxic or hazardous under the provisions of Sections 307 and 311 respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law, or

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

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

11. Removed Substances

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

12. Bypass of Waste Treatment Facilities

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

13. Emergency Action--Electric Power Failure

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

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

14. Spill Prevention and Containment

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

15. Connection to Municipal Treatment System

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

16. Pretreatment

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

DEFINITIONS

FOR THE PURPOSE OF THIS LICENSE THE FOLLOWING SHALL APPLY

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



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

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

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

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

II. JUDICIAL APPEALS

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

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

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

ADDITIONAL INFORMATION

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

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