



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

June 3, 2013

Mr. Bryan Fitch  
Town of Kingfield  
38 School St.  
Kingfield, ME. 04947

RE: Permit Compliance System Tracking Number #MEU508249  
Maine Waste Discharge License (WDL) Application #W008249-5S-B-R  
**Final Permit**

Dear Mr. Fitch:

Enclosed please find a copy of your **final** Maine WDL **renewal** which was approved by the Department of Environmental Protection. Please read this license renewal 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 592-7161.

Sincerely,

Cindy L. Dionne  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

cc: Beth DeHaas, DEP/CMRO  
Barry Mower, DEP/CMRO  
Doug Archer, Nestle  
Leanna Ross Targett, Town of Kingfield  
Lori Mitchell, DEP/CMRO  
Sandy Mojica, USEPA

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
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PORTLAND, MAINE 04103  
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PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04679  
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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF KINGFIELD	)	PROTECTION AND IMPROVEMENT
KINGFIELD, FRANKLIN COUNTY, MAINE	)	OF WATERS
SUBSURFACE WASTEWATER DISPOSAL	)	
#MEU508249	)	WASTE DISCHARGE LICENSE
#W008249-5S-B-R	)	
APPROVAL	)	RENEWAL

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

**APPLICATION SUMMARY**

The Town has submitted a timely and complete application to the Department for renewal of Waste Discharge License (WDL) # W008249-5S-A-N, which was issued by the Department on July 29, 2008, and is scheduled to expire on July 29, 2013. The 7/29/08 WDL authorized the discharge of 50,000 gallons per day of treated process wastewater, boiler blowdown and cooling waters into a dedicated sub-surface wastewater disposal system which will release the wastewater to ground water, Class GW-A, in Kingfield, Maine. It is noted that the initial WDL issued to the Town contained a typographical error by identifying the Waste Discharge License number as #W009017-5S-A-N.

**LICENSE SUMMARY**

This licensing action carries forward all the terms and conditions established in the 7/29/08 license, except:

- The license number has been changed from #MEU509017 / #W009017 to #MEU508249 / #W008249-5S-B-R;
- The sampling frequency for flow and pH has been revised from 1/week to 1/discharge day; and
- The previously established limit for pH in monitoring wells has been eliminated and replaced with a reporting condition.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated **June 3, 2013** 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 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 as defined in 38 M.R.S.A. § 414-A(1)(D).

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**ACTION**

THEREFORE, the Department APPROVES the above noted application of the TOWN OF KINGFIELD to discharge a maximum of 50,000 gallons per day of treated process wastewaters, boiler blowdown and cooling waters from its Kingfield facility via a subsurface wastewater disposal system to ground water, Class GW-A, in Kingfield, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

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

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 3<sup>RD</sup> DAY OF June 2013.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

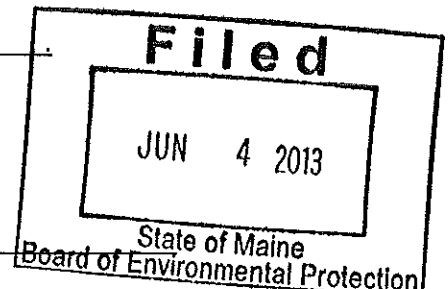
BY: Michael Kuhn  
For PATRICIA W. AHO, Commissioner

Date of initial receipt of application: February 4, 2013

Date of application acceptance: February 5, 2013

Date filed with Board of Environmental Protection \_\_\_\_\_

This Order prepared by Cindy L. Dionne, *Bureau of Land & Water Quality*



**SPECIAL CONDITIONS**

**A. LIMITATIONS AND MONITORING REQUIREMENTS**

1. The licensee is authorized to discharge treated process wastewaters, cooling waters and boiler blowdown wastewater from a subsurface wastewater system to ground water, Class GW-A, in Kingfield, Maine (OUTFALL #001). Such discharges are limited and shall be monitored by the licensee as specified below<sup>(1)(2)</sup>.

Effluent Characteristic	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	50,000 (gpd) [07]	1/Discharge Day <sup>(3)</sup> [01/DD]	Recorder [RC]
Total Suspended Solids [00530]	Report (mg/L) [19]	1/Month [01/30]	Grab [GR]
pH [00400]	The pH shall not be less than 6.0 or greater than 9.0 SU at any time. [19]	1/Discharge Day <sup>(3)</sup> [01/DD]	Recorder [RC]

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.

**SPECIAL CONDITIONS**

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

2. GROUND WATER MONITORING WELLS MW-1, MW-2, MW-3, AND MW-4 shall be limited and monitored by the licensee as follows specified below<sup>(2)</sup> <sup>(4)</sup>.

Characteristic	Daily Maximum	Measurement Frequency	Sample Type
Depth to Water Level Below Land Surface [72019]	Report (feet) <sup>(5)</sup> [27]	1/Month <sup>(6)</sup> [01/30]	Measure [MS]
Total Suspended Solids [00530]	Report mg/L [19]	3/Year <sup>(7)</sup> [03/YR]	Grab [GR]
Specific Conductance [00095]	Report (umhos/cm) <sup>(8)</sup> [11]	3/Year <sup>(7)</sup> [03/YR]	Grab [GR]
Nitrate-Nitrogen [00620]	10 mg/L [19]	3/Year <sup>(7)</sup> [03/YR]	Grab [GR]
pH [00400]	Report S.U. [19]	3/Year <sup>(7)</sup> [03/YR]	Grab [GR]

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.

## SPECIAL CONDITIONS

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

#### Footnotes

1. Outfall #001 – The licensee shall conduct sampling after the last treatment process and prior to conveyance to the subsurface disposal fields such that all samples are representative of the wastewater being conveyed to the subsurface system.
2. The licensee shall conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).
3. Once per Discharge Day – Reporting of flow and pH shall be conducted at a minimum frequency of once per day of discharge.
4. Monitoring Wells – MW-1 is located approximately 35 feet east of disposal field #1;  
MW-2 is located approximately 35 feet east of disposal field #2;  
MW-3 is located approximately 35 feet east of disposal field #3;  
MW-4 (background well) is located approximately 100 feet west of disposal field #2.
5. Depth to ground water – Measured to the nearest one tenth (1/10<sup>th</sup>) of a foot as referenced from the surface of the ground at the base of the monitoring well.
6. Measurement Frequency – Measurements are only required from April 1 – November 30, inclusive of each year.
7. TSS, Specific Conductance, Nitrate-nitrogen, and pH – Measurements are only required from April 1 – November 30, inclusive of each year and there must be at least 45 days between sampling events.
8. Specific conductance (calibrated to 25.0° C) and pH are considered to be “field” parameters, and are to be measured in the field via instrumentation. Specific conductance values indicating a statistically significant trend upwards or sudden spikes from previous levels may necessitate the need for additional ground water testing requirements. Measurement of pH shall also be performed with specific conductance.

## **SPECIAL CONDITIONS**

### **B. AUTHORIZED DISCHARGES**

The licensee is authorized to discharge only in accordance with: 1) the licensee's General Application for Waste Discharge Permit, accepted for processing on February 5, 2013; 2) the terms and conditions of this license; and 3) only from the one (1) subsurface wastewater disposal system identified as the Kingfield Subsurface System in this licensing action. Discharges of wastewater from any other point source are not authorized under this license, and shall be reported in accordance with Standard Condition 11, *Bypass of Waste Treatment Facilities*, of this license.

### **C. NARRATIVE EFFLUENT LIMITATIONS**

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

### **D. GENERAL OPERATIONAL REQUIREMENTS**

1. The licensee shall operate the system consistent with the requirements of the *Maine Subsurface Waste Water Disposal Rules*, 10-144 CMR 241 (January 18, 2011) and other pertinent regulations, as well as the limitations of the design.
2. All upgrades, replacements or authorized expansions of the treatment systems must comply with 10-144 CMR 241 and be approved by the Department.
3. The licensee shall maintain a file on the location of all system components and relevant features. Each component must be mapped and field-located sufficiently to allow adequate inspections and monitoring by both the licensee and the Department. Septic tanks and distribution box covers must be accessible for inspections and pumping.

### **E. TREATMENT PLANT OPERATOR**

It is the Department's best professional judgement (BPJ) that the operator of this facility must hold a minimum of a Maine **Grade I Physical/Chemical** certificate (or a Maine Professional Engineer [P.E.]) so as to protect the public health or prevent nuisance conditions or unlawful pollution.

### **F. NOTIFICATION REQUIREMENT**

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



## **SPECIAL CONDITIONS**

### **F. NOTIFICATION REQUIREMENT (cont'd)**

Department of the following:

Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system. For the purposes of this section, notice regarding substantial change shall include information on:

- (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
- (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

### **G. SYSTEM INSPECTIONS**

1. The licensee shall conduct at least three inspections of the disposal fields per year.
2. The inspection report or log must include the date of the inspection, the name(s) of the person(s) performing the inspection, and other relevant system observations.
3. Disposal field inspections must document: any signs of hydraulic failure; condition of the surface vegetation; level of ponding within the chamber and on the disposal area; physical encroachments into the disposal area and other sources of hydraulic loading.

### **H. MAINTENANCE LOGS**

Maintenance logs must be maintained for each system component including conveyance piping, pumps, distribution boxes and the disposal fields. This must include for each system: 1) the alphanumeric ID; 2) a summary of the results of all inspections; 3) a summary of all significant maintenance activities and repairs, and other specific action(s) taken to ensure the proper functioning of the systems; 4) a listing of all additions and deletions to the system or individual system components; 5) a summary of pumping activity for all septic tanks and other treatment components; 6) a summary of relevant performance observations; and 7) the volumes of wastewater directed to each disposal field.

### **I. OPERATIONS AND MAINTENANCE (O & M) PLAN**

The licensee shall have a current written comprehensive Operation & Maintenance (O&M) Plan for this facility. The plan must 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**

#### **I. OPERATIONS AND MAINTENANCE (O & M) PLAN (cont'd)**

plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date.

The site plan(s) and schematic(s) should be suitable for reproduction on 11" x 17" paper and must include but not be limited to all manholes, and other treatment tanks including holding and polishing tanks, pump stations and disposal fields. Each system component shall be provided with a unique alphanumeric identifier.

**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. The O&M Plan must be kept on-site at all times and made available to Department personnel upon request.

#### **J. MONITORING AND REPORTING**

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

Department of Environmental Protection  
Bureau of Land and Water Quality  
Division of Water Quality Management  
State House Station #17  
Augusta, Maine 04333-0017

Alternatively, if the permittee submits 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 **15<sup>th</sup> 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 (13<sup>th</sup>) 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 (15<sup>th</sup>) 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 15<sup>th</sup> day of the month following the completed reporting period.

#### **K. REOPENING OF LICENSE FOR MODIFICATIONS**

In accordance with 38 M.R.S.A. § 414-A(5) and 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 data or any other pertinent information or test results obtained

**K. REOPENING OF LICENSE FOR MODIFICATIONS (cont'd)**

during the term of this license, the Department may, at any time and with notice to the licensee, modify this license to require additional monitoring, inspections and/or reporting based on the new information.

**L. 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 the license shall remain in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

**MAINE WASTE DISCHARGE LICENSE**

**FACT SHEET**

**DATE: JUNE 3, 2013**

**LICENSE COMPLIANCE TRACKING NUMBER: #MEU508249**

**WASTE DISCHARGE LICENSE NUMBER: #W008249-5S-B-R**

**NAME AND MAILING ADDRESS OF OWNER:**

**TOWN OF KINGFIELD  
38 SCHOOL STREET  
KINGFIELD, MAINE 04086**

**COUNTY: FRANKLIN**

**NAME AND MAILING ADDRESS OF APPLICANT:**

**TOWN OF KINGFIELD  
38 SCHOOL STREET  
KINGFIELD, MAINE 04086**

**NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:**

**TOWN OF KINGFIELD SUBSURFACE WASTEWATER SYSTEM  
MAIN STREET / ROUTE 27 - KINGFIELD MAP 3 LOT 10  
KINGFIELD, ME 04086**

**RECEIVING WATER/ CLASSIFICATION: GROUND WATER/CLASS GW-A**

**COGNIZANT OFFICIAL AND TELEPHONE NUMBER: BRYAN FITCH**

**TOWN OF KINGFIELD**

**(207) 265-4637**

**kingfieldwastewater@gmail.com**

**1. APPLICATION SUMMARY**

- a. Application: The Town of Kingfield (Town) has submitted a timely and complete application to the Department of Environmental Protection (Department) for renewal of

## 1. APPLICATION SUMMARY (cont'd)

Waste Discharge License (WDL) #W008249-5S-A-N which was issued on July 29, 2008 and is scheduled to expire on July 29, 2013. The 7/29/08 WDL authorized the operation of a subsurface wastewater disposal system with a design capacity of 50,000 gallons per day for the treatment of process wastewater, boiler blowdown and cooling waters into a dedicated sub-surface wastewater disposal system which will release the wastewater to ground water, Class GW-A, in Kingfield, Maine. The subsurface system is located on the east side of Route #27 and westerly of the Carrabassett River. See **Attachment A** of this Fact Sheet for a location map of the facility. It is noted that the initial WDL issued to the Town contained a typographical error by identifying the Waste Discharge License number as #W009017-5S-A-N.

b. History: Recent Department licensing actions include the following:

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permitting program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program, and MEPDES permit #ME0101443 has been utilized for this facility. On March 26, 2011, the USEPA authorized the Department to administer the MEPDES program in Indian territories of the Penobscot Nation and Passamaquoddy Tribe.

March 25, 2008 – The Town of Kingfield submitted an application to the Department to install, operate and maintain a subsurface wastewater disposal system serving the Nestle/Poland Spring Bottling facility that was under construction at that time.

July 29, 2008 – The Department issued WDL # W008249-5S-A-N which authorized the licensee to discharge 50,000 gallons per day of process wastewater, boiler blowdown and cooling waters associated with a drinking water bottling facility into a subsurface wastewater disposal system. . It is noted that the initial WDL issued to the Town contained a typographical error by identifying the Waste Discharge License number as #W009017-5S-A-N.

February 4, 2013 – The Town of Kingfield submitted a timely and complete application to renew the waste discharge license for the Town of Kingfield Subsurface Wastewater System.

c. Source Description: The Town of Kingfield Subsurface Wastewater Disposal System accepts pretreated wastewater from the Nestle (formerly Poland Spring) Bottling facility. In the bottling process, wastewater includes but is not limited to, spillage from bottling operations, clean-in-place (CIP) waters, (cleaning of bottling lines), boiler blowdown and chiller/cooling tower waters. Combined, the daily maximum flow is expected to be less than or equal to 50,000 gpd. The spillage and CIP waters are generated on daily basis and the boiler blowdown and chiller/cooling tower waters are intermittent and seasonal.

## 1. APPLICATION SUMMARY (cont'd)

- d. Wastewater Treatment: Due to the relatively insignificant pollutant loading associated with the aforementioned waste streams, the only formal treatment wastewater receives prior to being conveyed to the subsurface disposal fields is pH adjustment. Once the pH is adjusted by the bottling facility, the water is sent to a 40,000 gallon storage tank. The wastewater is then conveyed to three separate subsurface wastewater disposal systems totaling 18,000 square feet. The ground water table ranges from 4-10 feet below the surface of the ground and the flow direction is west to east towards the Carrabassett River. All sanitary wastewaters generated by employees at the bottling facility are disposed of in an on-site subsurface wastewater disposal system owned and maintained by Nestle.

## 2. LICENSE SUMMARY

This licensing action is carrying forward the terms and conditions established in the previous licensing action except:

- The license number has been changed from #MEU509017 / #W009017 to #MEU508249 / #W008249-5S-B-R;
- The sampling frequency for flow and pH has been revised from 1/week to 5/week;
- The previously established limit for pH in monitoring wells has been eliminated and replaced with a reporting condition; and
- This permit eliminates the requirement that the treatment facility operator hold a minimum Grade I Physical/Chemical certificate.

## 3. CONDITIONS OF LICENSE

*Conditions of licenses* 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System.

## 4. RECEIVING WATER QUALITY STANDARDS

*Classification of ground water*, 38 M.R.S.A. § 470 states "All ground water shall be classified as not less than Class GW-A, except as otherwise provided in this section." *Standards of classification of ground water*, 38 M.R.S.A. § 465-C(1) contains the standards for the classification of ground waters. "Class GW-A shall be the highest classification and shall be of such quality that it can be used for public drinking water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair usages of these waters, other than that occurring from natural phenomena."

## 5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

### Outfall #001

- a. Flow – This licensing is carrying forward the daily maximum flow limitation of 50,000 gpd and revising the monitoring frequency from 1/week to 1/Discharge Day in this permit.

The Department reviewed 48 DMRs that were submitted for the period January 1, 2009 – December 31, 2012. A review of data indicates the following:

#### Flow

Limit (GPD)	Minimum (GPD)	Maximum (GPD)	Average (GPD)
50,000	21.36	48,325	24,776.2

- b. Total suspended solids (TSS) – This license is carrying forward the daily maximum concentration reporting requirement for TSS with a 1/Month monitoring requirement established in the previous permit. Excessive quantities of TSS (>50 mg/L) conveyed to the disposal fields may result in masking of the disposal fields and ultimately failure of the systems to accept and treat waters.

The Department reviewed 42 DMRs that were submitted for the period January 1, 2009 – December 31, 2012. A review of data indicates the following:

#### TSS

Limit (mg/L)	Minimum (mg/L)	Maximum (mg/L)	Average (mg/L)
Report	2.0	29.0	6

\*Data from December 31, 2009 is not included in this summary table.

- c. pH – The pH range limitation of 6.0 – 9.0 is based on Department best professional judgment of best practicable treatment (BPT) for this discharge. A monitoring frequency of 1/Discharge Day is being established in this permitting action.

The Department reviewed 48 DMRs that were submitted for the period January 1, 2009 – December 31, 2012. A review of data indicates the following:

#### pH

Value	Limit (SU)	Minimum (SU)	Maximum (SU)
Range	6.0 – 9.0	5.63	8.98

### Monitoring Wells MW-1, MW-2, MW-3 & MW-4

See **Attachment B** for a plan of the subsurface treatment system as well as the associated monitoring wells.

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

- d. Depth To Ground water – This licensing action carries forward the established 1/Month (April – November inclusive) monitoring requirement to seasonally track ground water levels. The licensee is not being required to measure ground water levels in December, January and February or March due to the logistics of monitoring said levels during the winter season.

The Department reviewed 22 DMRs that were submitted for the period April 1, 2009 – November 30, 2012. A review of data indicates the following:

### Depth To Ground water

Daily Maximum Limit (feet)	Minimum (feet)	Maximum (feet)	Average (feet)
Report			
MW-1	8.90	16.0	11
MW-2	10.0	16.0	13
MW-3	10.0	16.0	12
MW-4	8.4	16.0	11

\*Data from July 31, 2010 for MW-1 is not included in this table.

- e. TSS – This license is carrying forward the established 3/Year (April – November) monitoring requirement for TSS. Elevated levels of TSS in a monitoring well is an indication of a failure in the bentonite seal of the well allowing surface water to contaminate the monitoring well.

The Department reviewed 8 DMRs that were submitted for the period April 1, 2009 – November 30, 2012. A review of data indicates the following:

### TSS

Daily Maximum Limit (mg/L)	Minimum (mg/L)	Maximum (mg/L)	Average (mg/L)
Report			
MW-1	4.8	270	130
MW-2	2.0	53	9
MW-3	2.0	5.4	2
MW-4	2.0	110	18

\*Data from October 31, 2009 for MW-1, MW-2, MW-3, and MW-4 is not included in this table.

- f. Specific conductance – Specific conductance is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential ground water contamination. This license is carrying forward the previously established monitoring frequency of 3/Year (April – November). The sample must be temperature-calibrated to



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

25°C. The licensee shall report to the Department statistically significant trends upward or sudden spikes from previous levels that may necessitate the need for additional ground water testing requirements.

The Department reviewed 8 DMRs that were submitted for the period April 1, 2009 – November 30, 2012. A review of data indicates the following:

### Specific Conductance

Daily Maximum Limit (umhos/cm)	Minimum (umhos/cm)	Maximum (umhos/cm)	Average (umhos/cm)
Report			
MW-1	1.9	253.3	114
MW-2	1.5	208.8	112
MW-3	1.7	142	73
MW-4	3.3	270.9	140

\*Data from September 30, 2009 for MW-1, MW-2, MW-3, and MW-4 is not included in this table.

- g. Nitrate-Nitrogen – This license is carrying forward the established daily maximum concentration limit of 10 mg/L as this is consistent with the National Primary Drinking Water standard. Elevated levels of nitrate-nitrogen in the drinking water supply are of human health concern. Nitrogen compounds have been identified by the licensee as being elevated in the CIP waste stream. Because nitrate-nitrogen is weakly absorbed by soil, it functions as a reliable indicator of contamination from waste-disposal sites.

The Department reviewed 9 DMRs that were submitted for the period April 1, 2009 – November 30, 2012. A review of data indicates the following:

### Nitrate as nitrogen

Daily Maximum Limit (mg/L)	Minimum (mg/L)	Maximum (mg/L)	Average (mg/L)
10			
MW-1	2.3	7.1	4
MW-2	1.2	4.1	2
MW-3	0.07	4.3	1
MW-4	0.55	2.0	1

\*Data from September 30, 2009 and October 31, 2009 for MW-1, MW-2, MW-3, and MW-4 is not included in this table.

- h. pH – The previous license established a pH range limitation of 6.0 – 9.0 standard units (SU) for ground water wells based on a National Secondary Drinking Water Standard established

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

by the U.S. Environmental Protection Agency (USEPA) for drinking water. This licensing action is eliminating this range limitation as this is a non-mandatory water quality standard for drinking water that is not enforced by either the State or the USEPA. Monitoring and reporting for ground water pH is being carried forward to assist the licensee and the Department in evaluating potential impacts resulting from the authorized discharge via the subsurface system.

The Department reviewed 13 DMRs that were submitted for the period January 31, 2009 – November 30, 2012. A review of data indicates the following:

### pH

Previous Limit (SU)	Minimum (SU)	Maximum (SU)	Average (SU)
6.0 – 9.0			
MW-1	4.28	8.67	6.2
MW-2	4.3	7.8	6.1
MW-3	4.6	7.5	6.1
MW-4	4.5	7.5	6.1

## 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 the Kingfield Irregular newspaper on Wednesday, January 30, 2013. 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 *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:

Cindy L. Dionne

Division of Water Quality Management - Bureau of Land & Water Quality

Maine Department of Environmental Protection

17 State House Station

Augusta, Maine 04333-0017 Telephone: (207) 592-7161 Fax: (207) 287-3435

e-mail: [cindy.l.dionne@maine.gov](mailto:cindy.l.dionne@maine.gov)

## 9. RESPONSE TO COMMENTS

During the period of April 19, 2013 through the issuance of this permit, the Department solicited comments on the proposed draft Waste Discharge license to be issued to the Town for the proposed discharge. Ms. Beth DeHaas, inspector for the Department, noted minor typographical errors that have been corrected in addition to the following two comments.

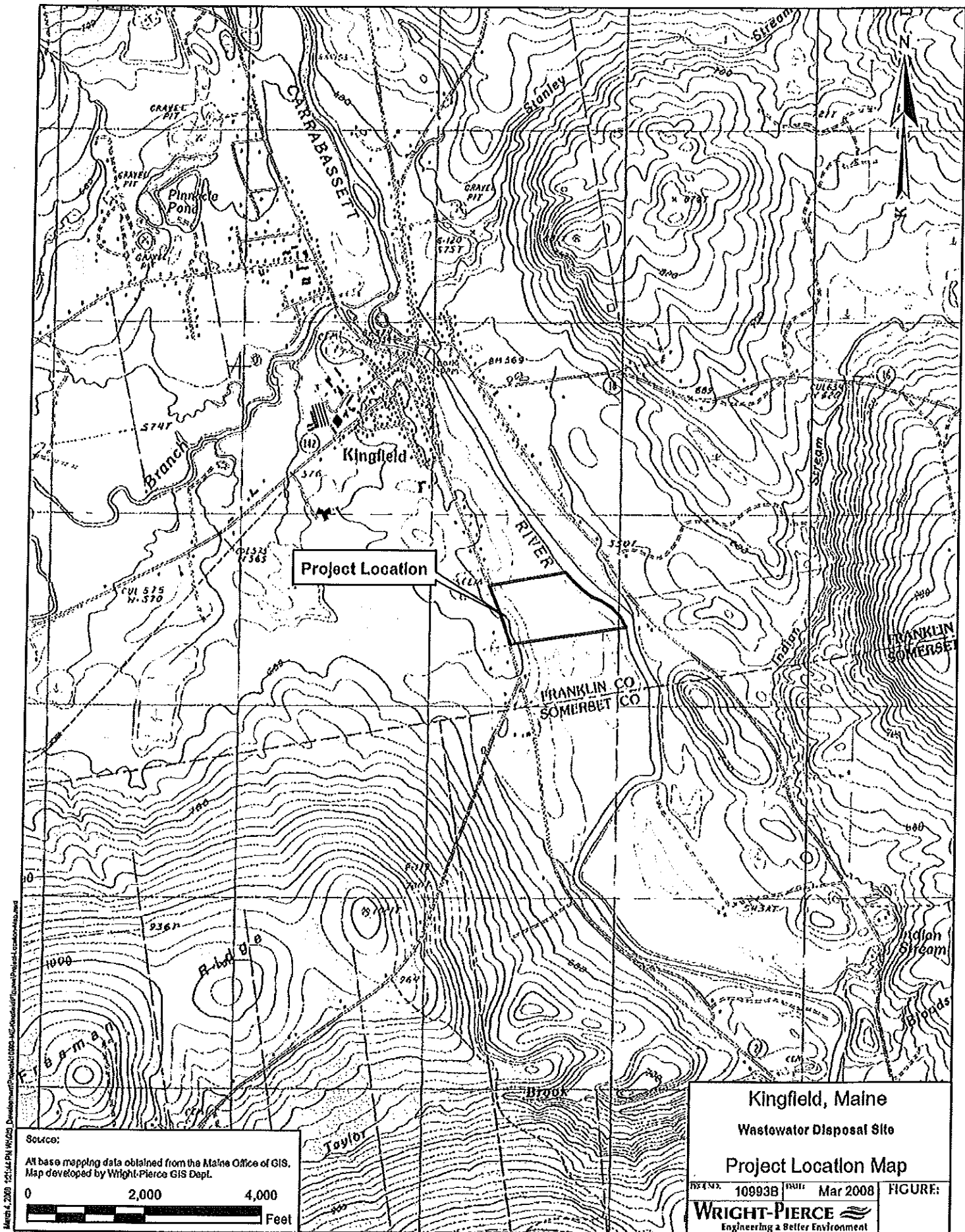
**Comment #1:** Ms. DeHaas noted that Special Condition B *Treatment Plant Operator* from the 2006 license had been eliminated in the 2013 draft license. She expressed concern that a person without an operator's license could be responsible for the operation of the facility and the associated reporting requirements.

**Response #1:** Title 32 M.R.S.A. § 4171 et seq and Department Rule Chapter 531 require certification for the operation of a wastewater system that removes sewage. Therefore, it does not directly apply to this facility. However, it is the Departments BPJ that the operator of this facility should hold a minimum of a Maine **Grade I Physical/Chemical** certificate (or a Maine Professional Engineer [P.E.]) so as to protect the public health or prevent nuisance conditions or unlawful pollution as stated in Special Condition E of this license. The final license has been revised to reflect this decision.

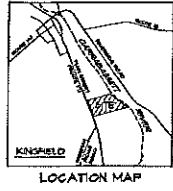
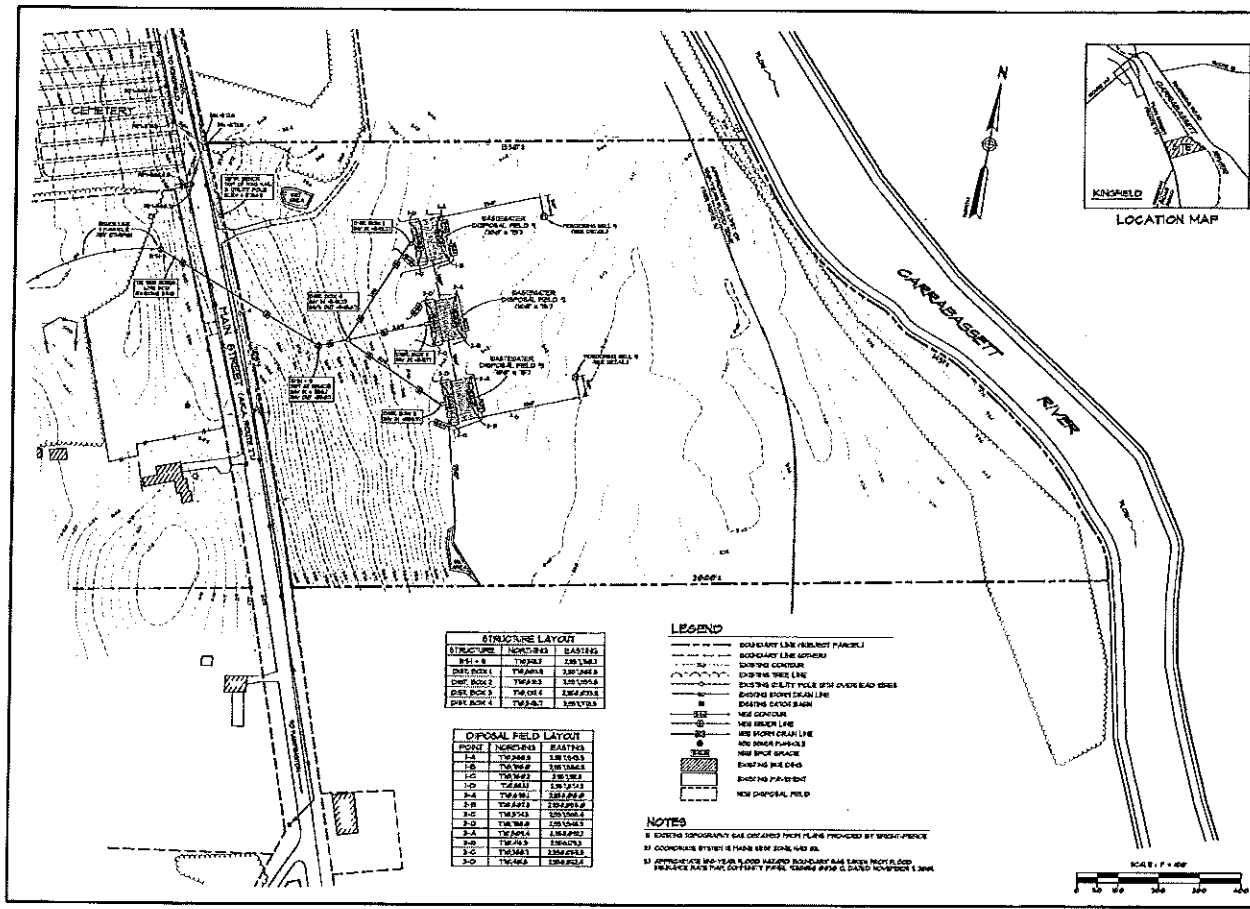
**Comment #2:** Ms. DeHaas requested that the monitoring frequency for flow in Outfall #001 be revised to once per discharge day (1/Discharge Day) to better represent actual discharge amount to the subsurface system due to production fluctuations.

**Response #2:** The draft license included a requirement that the flow and pH in Outfall #001 be reported 5 times per week (5/week). The flow and pH in Outfall #001 are electronically metered, therefore the Department does not believe recording once per discharge day would cause undo hardship or difficulty for the permittee. The Department also agrees that monitoring when there is a discharge is appropriate. Therefore the final license has been revised to include a monitoring frequency of once per discharge day for flow and pH in Outfall #001.

# **ATTACHMENT A**



## **ATTACHMENT B**



**STRUCTURE LAYOUT**

STRUCTURE	NORTHINGS	EASTINGS
STR. 1	100000	100000
STR. 2	100000	100000
STR. 3	100000	100000
STR. 4	100000	100000

**DISPOSAL FIELD LAYOUT**

POINT	NORTHINGS	EASTINGS
1-A	100000	100000
1-B	100000	100000
1-C	100000	100000
1-D	100000	100000
1-E	100000	100000
1-F	100000	100000
1-G	100000	100000
1-H	100000	100000
1-I	100000	100000
1-J	100000	100000
1-K	100000	100000
1-L	100000	100000
1-M	100000	100000
1-N	100000	100000
1-O	100000	100000

- LEGEND**
- BOUNDARY LINE (SOLID OR DASHED)
  - BOUNDARY LINE (SOLID OR DASHED)
  - EXISTING CONTOUR
  - EXISTING TRAIL LINE
  - EXISTING UTILITY POLE WITH OVERHEAD WIRE
  - EXISTING POWER LINE
  - EXISTING CATCH BASIN
  - NEW CONTOUR
  - NEW TRAIL LINE
  - NEW POWER LINE
  - NEW POWER POLE
  - NEW POWER POLE
  - EXISTING PUMP
  - NEW DISPOSAL FIELD

**NOTES**

1. EXISTING TOPOGRAPHY HAS BEEN OBTAINED FROM PLANS PROVIDED BY WRIGHT-PETERSON.

2. COORDINATE SYSTEM IS 1983 UTM ZONE 18Q UTM 50N.

3. IMMEDIATELY NEARBY ROAD BOUNDARY HAS BEEN NOTED AND INDICATED BY TWO DASHED LINES. OTHER ROAD BOUNDARIES ARE NOT NOTED.



SUBSURFACE WASTEWATER DISPOSAL SYSTEM - PLAN VIEW	
SECTIONS AND DETAILS	
PROJECT NO.	100000
DATE	10/1/84
DESIGNED BY	WRIGHT-PETERSON
CHECKED BY	WRIGHT-PETERSON
APPROVED BY	WRIGHT-PETERSON
DATE	10/1/84
POLAND SPRING FACILITY	
ADDRESS	KINSFIELD, MAINE
CITY	KINSFIELD
STATE	MAINE
COUNTY	ANDROSCOGG
SHEET NUMBER	
DS-1	

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.

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**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.**

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