



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

March 17, 2015

Mr. Ed Wood  
Waterways, Inc.  
P.O. 220  
816 Main Street  
Waterboro, ME. 04087  
[ewood@waterwayscoffeeshop.com](mailto:ewood@waterwayscoffeeshop.com)

*Transmitted via electronic mail  
Delivery confirmation requested*

RE: Permit Compliance System Tracking Number #MEU508129  
Maine Waste Discharge License (WDL) Application #W008129-5S-E-R  
**Proposed Draft License**

Dear Mr. Wood:

Enclosed is a **proposed draft** MEPDES permit and Maine WDL (permit hereinafter) which the Department proposes to issue as a final document after opportunity for your review and comment. By transmittal of this letter you are provided with an opportunity to comment on the proposed draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies, as required by our new regulations, and from any other parties who have notified the Department of their interest in this matter.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Wednesday, April 15, 2015**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection  
Bureau of Land & Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, ME. 04333

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

If you have any questions regarding the matter, please feel free to call me at 215-1579.

Sincerely,

A handwritten signature in cursive script that reads "Yvette Meunier".

Yvette M. Meunier  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

cc: Fred Gallant, DEP/SMRO  
Pam Parker, DEP/CMRO  
Barry Mower, DEP/CMRO  
Susanne Meidel, DEP/CMRO  
Alex Rosenberg, EPA  
David Pincumbe, EPA  
David Webster, EPA  
Olga Vergara, EPA  
Lori Mitchell, DEP/CMRO  
Marelyn Vega, EPA



DEPARTMENT ORDER

IN THE MATTER OF

WATERWAYS, INC.	)	PROTECTION AND IMPROVEMENT
WATERBORO, YORK COUNTY, MAINE	)	OF WATERS
COMMERCIAL CAR WASH	)	WASTE DISCHARGE LICENSE
#MEU508129	)	
#W008129-5S-E-R	)	
<b>APPROVAL</b>	)	<b>RENEWAL</b>

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S.A. §§ 414-A, *Water Classification Program*, and applicable rules of the Department of Environmental Protection (Department), the Department has considered the application of the WATERWAYS, INC. (Waterways), with its supportive data, agency review comments, and other related materials on file, and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On January 6, 2015, the Department of Environmental Protection (Department) accepted as complete for processing an application from Waterways for renewal of Waste Discharge License (WLD) #W008129-5S-B-R / Permit Compliance System (PCS) tracking #MEU5008219 which was issued on December 31, 2009 for a five-year term. The 12/23/09 WDL authorized Waterways to operate a subsurface wastewater disposal system (SWDS) that was designed to treat and discharge a monthly average flow of 2,500 gallons per day of treated process wastewater generated from a commercial car wash facility on a 4 acre parcel located on the east side of Route 202 to ground water, Class GW-A, in Waterboro, Maine. It is noted that in the license summary of the 2009 license the sub-surface waste water disposal system was designed to treat up to 700 gallons per day, in fact it is designed to treat up to 2,500 gallons per day.

The Department issued two minor permit modifications: A minor permit revision on October 21, 2011 (to reduce extractable petroleum hydrocarbons (EPH) and volatile petroleum hydrocarbons (VPH) testing, modify or eliminate testing requirements for Methyl Tertiary-Butyl-Ether (MTBE), Benzene-Toluene-Ethylene-Xylene (BTEX), total dissolved solids (TDS), and oil & grease to be consistent with other like facilities and reduce ground water monitoring from quarterly to annually); and a minor permit revision on April 2, 2012 (to reduce the monitoring frequency of treated process wastewater from quarterly to annually when monthly average flow is less than 250 gallons per day for the entire quarter).

**LICENSE SUMMARY**

This licensing action is carrying forward all the terms and conditions of the previous license except it is:

1. Eliminating the requirement to monitor ground water monitoring wells GW-1 and GW-2 based on monitoring data submitted to date and to be consistent with the limitations and monitoring requirements for other like licensing actions; and

### LICENSE SUMMARY (cont'd)

2. Eliminating tiered flow regime requirements associated with the Outfall #001B to be consistent with other like licensing actions; and
3. Establishing a once per year monitoring frequency for pH pursuant to *Waste Discharge License Conditions* 06-096 CMR 523 (5)(i)(3) (effective April 5, 1999).

### CONCLUSIONS

Based on the findings summarized in the attached Fact Sheet dated **March 17, 2015**, 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 the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S.A. § 414-A(1)(D).

**ACTION**

THEREFORE, the Department APPROVES the above noted application of the WATERWAYS, INC. to discharge a monthly average flow of 2,500 gpd of treated process wastewater to a subsurface wastewater disposal system to the soil above ground water, Class GW-A, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Standard Conditions Applicable To All Permits*, dated July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This license expires five (5) years from the date of the signature below. 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) (amended August 25, 2013)]

DONE AND DATED AT AUGUSTA, MAINE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
PATRICIA W. AHO, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: December 30, 2014

Date of application acceptance: January 6, 2015

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

This Order prepared by Yvette Meunier, BUREAU OF LAND & WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- The licensee is authorized to discharge treated process wastewater from **OUTFALL #001** to a subsurface wastewater disposal (leachfield) system. Limitations are applicable and monitoring shall be **conducted at a sampling port located after carbon filtration** but before the distribution box for the leachfield. Limitations and monitoring by the licensee will be as specified below<sup>(1)</sup>:

Effluent Characteristic	Discharge Limitations		Minimum
	Monthly Average	Measurement Frequency	Monitoring Requirements
			Sample Type
Flow [50050]	2,500 gpd <sup>(2)</sup> [03]	1/Day [01/01]	Metered [MT]
Specific Conductance [00095]	Report (umhos/cm) [11]	1/Quarter [01/90]	Measure [MS]
Temperature [00011]	Report (°F) [15]	1/Quarter [01/90]	Measure [MS]
Benzene [34030]	Report µg/L [28]	1/Quarter [01/90]	Grab [GR]
Lead[01051]	15 µg/L [28]	1/Quarter [01/90]	Grab [GR]
<b><u>EPH</u></b> <sup>(3)</sup>			
C9-C18 Aliphatics [51678]	700 µg /L [28]	1/Quarter [01/90]	Grab [GR]
C19-C36 Aliphatics [51679]	10,000 µg /L [28]	1/Quarter [01/90]	Grab [GR]
C11-C22 Aromatics [51681]	200 µg /L [28]	1/Quarter [01/90]	Grab [GR]
<b><u>VPH</u></b> <sup>(4)</sup>			
C5-C8 Aliphatics [51676]	300 µg /L [28]	1/Quarter [01/90]	Grab [GR]
C9-C12 Aliphatics [51677]	700 µg /L [28]	1/Quarter [01/90]	Grab [GR]
C9-C10 Aromatics [51680]	200 µg /L [28]	1/Quarter [01/90]	Grab [GR]
Chlorides <sup>(5)</sup> [00940]	250 mg/L [19]	2/Year [02/YR]	Grab [GR]
pH (Standard Units) [00400]	6.0 – 9.0 SU [12]	1/Year [01/YR]	Grab [GR]

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

**FOOTNOTES:** See Page 5 of this license for applicable footnotes.

## SPECIAL CONDITIONS

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

#### FOOTNOTES

1. **Sampling** – Any change in sampling location must be approved by the Department in writing. The licensee must 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 for wastewater. 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). If the licensee monitors any pollutant more frequently than required by the license using test procedures approved under 40 CFR part 136 or as specified in this license, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
2. Flow must be calculated as follows: The total discharge by liquid (gallons) measure during the calendar month divided by the number of days in the month that the facility was operating.
3. **Extractible Petroleum Hydrocarbons (EPH)** – The permittee must utilize test method entitled, Method For the Determination of Extractible Petroleum Hydrocarbons (EPH), Massachusetts Department of Environmental Protection, Division of Environmental Analysis, Office of Research and Standards, Bureau of Waste Site Cleanup, May 2004, Revision 1.1. The RL for EPH is 100 ug/L.
4. **Volatile Petroleum Hydrocarbons (VPH)** - The permittee must utilize test method entitled, Method For the Determination of Volatile Petroleum Hydrocarbons (VPH), Massachusetts Department of Environmental Protection, Division of Environmental Analysis, Office of Research and Standards, Bureau of Waste Site Cleanup, May 2004, Revision 1.1. The RL for VPH is 100 ug/L.

### B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent must not contain materials in concentrations or combinations which would impair the uses designated for the classification of the ground water.
2. 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.

### C. AUTHORIZED DISCHARGES

The licensee is authorized to discharge only in accordance with: 1) the licensee's General Application for Waste Discharge License, accepted for processing on January 6, 2015; 2) the terms and conditions of this license; and 3) only via Outfall #001 to the subsurface wastewater disposal system identified in the Waste Discharge License application. Discharges of wastewater from any other point source(s) are not authorized under this license, and must be reported in accordance with Standard Condition 11, *Bypasses of Waste Treatment Facilities*, of this license.

## SPECIAL CONDITIONS

### D. NOTIFICATION REQUIREMENT

In accordance with Standard Condition #6, the licensee must notify the Department of the following:

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and
2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to the system at the time of license issuance. For the purposes of this section, notice regarding substantial change must include information on:
  - (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

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

The licensee must maintain a current written comprehensive Operation & Maintenance (O & M) Plan. The plan must provide a systematic approach by which the licensee must 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 must evaluate and modify the O& M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O& M Plan must be kept on-site at all times and made available to the Department personnel upon request.

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

### F. MONITORING AND REPORTING

Monitoring results must be summarized for each month and reported on separate Daily Monitoring Report (DMR) forms provided by the Department and **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 must be submitted to the following address:

## **SPECIAL CONDITIONS**

### **F. MONITORING AND REPORTING (cont'd)**

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

Alternatively, if the licensee 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.

### **G. REOPENING OF LICENSE FOR MODIFICATION**

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 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.

### **H. SEVERABILITY**

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

**MAINE WASTE DISCHARGE LICENSE**

**PROPOSED**  
**FACT SHEET**

DATE: **MARCH 17, 2015**

PERMIT COMPLIANCE TRACKING NUMBER: **#MEU508129**

WASTE DISCHARGE LICENSE: **#W008129-5S-E-R**

NAME AND ADDRESS OF APPLICANT:  
**WATERWAYS, INC.**  
**P.O. BOX 570**  
**SHAPLEIGH, MAINE 04076**

COUNTY: **YORK**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):  
**WATERWAYS, INC.**  
**STATE ROUTE 202/HAMILTON ROAD**  
**WATERBORO, MAINE 04076**

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

COGNIZANT OFFICIAL CONTACT INFORMATION:  
**MR. FRANCIS EDWARD WOOD**  
**(207) 247-4023 OR (207) 247-2266**  
**EMAIL: [ewood@waterwayscoffeeshop.com](mailto:ewood@waterwayscoffeeshop.com)**

**1. APPLICATION SUMMARY**

Application: On January 6, 2015, the Department of Environmental Protection (Department) accepted as complete for processing an application from Waterways for renewal of Waste Discharge License (WDL) #W008129-5S-B-R / Permit Compliance System (PCS) tracking #MEU5008219 which was issued on December 31, 2009 for a five- year term. The 12/23/09 WDL authorized Waterways to operate a sub-surface wastewater disposal system (SWDS) that was designed to treat and discharge up to 2,500 gallons per day of treated process wastewater generated from a commercial car wash facility on a 4 acre parcel located on the east side of Route 202 to ground water, Class GW-A, in Waterboro, Maine. It is noted that in the license summary of the 2009 license the sub-surface waste water disposal system was designed to treat up to 700 gallons per day, in fact it is designed to treat up to 2,500 gallons per day. See **Attachment A** of this Fact Sheet for a location map.

The Department issued two minor permit modifications: A minor permit revision on October 21, 2011 (to reduce extractable petroleum hydrocarbons (EPH) and volatile petroleum hydrocarbons (VPH) testing,

## 1. APPLICATION SUMMARY (cont'd)

modify or eliminate testing requirements for Methyl Tertiary-Butyl-Ether (MTBE), Benzene-Toluene-Ethylene-Xylene (BTEX), total dissolved solids (TDS), and oil & grease to be consistent with other like facilities and reduce ground water monitoring from quarterly to annually); and a minor permit revision on April 2, 2012 (to reduce the monitoring frequency of treated process wastewater from quarterly to annually when monthly average flow is less than 250 gallons per day for the entire quarter).

## 2. LICENSE SUMMARY

- a. Terms and Conditions: This licensing action is carrying forward all the terms and conditions of the previous license except it is:
1. Eliminating the requirement to monitor ground water monitoring wells GW-1 and GW-2 based on monitoring data submitted to date and to be consistent with the limitations and monitoring requirements for other like licensing actions; and
  2. Eliminating tiered flow regime requirements associated with the Outfall #001B to be consistent with other like licensing actions; and
  3. Establishing a once per year monitoring frequency for pH pursuant to *Waste Discharge License Conditions* 06-096 CMR 523 (5)(i)(3) (effective April 5, 1999).

- b. History: The most current relevant regulatory actions include:

*March 23, 2001* – The applicant submitted an application for approval under the Waste Discharge License (WDL) program for the disposal of wastewater generated by the proposed car wash facility that was accepted for processing on April 3, 2001.

*April 26, 2001* – The Department of Human Services, Division of Health Engineering submitted comments to the Department indicating that the soils in the area proposed for the WDL licensed system are suitable for the hydraulic load from the planned on-site disposal of wastewater.

*September 26, 2001* – The Department issued WDL #W008129-5S-A-N for a five-year term.

*December 31, 2009* – The Department issued WDL #W008129-5S-B-R for a five-year term. The facility has been assigned number MEU508129 for tracking compliance in the Department's permit compliance system (PCS).

*December 30, 2014* – Waterways submitted a timely and complete General Application to the Department for renewal of the 12/31/09 MEPDES license. The application was accepted for processing on January 6, 2015, and was assigned WDL # W008129-5S-E-R / PCS Tracking # MEU508129.

- c. Source Description: The wash facility consists of an automated wash, a single bay "self service" wash bay with limited access and a custom "dog wash." The daily maximum throughput on the automated wash bay is 120 cars which will generate 60 gallons of wastewater a day, the self service bay will operate approximately 295 minutes/day and generate approximately 945 gallons of wastewater per day and the dog wash will operate approximately 380 minutes per day and generate 1,450 gallons/day for a

## 2. LICENSE SUMMARY (cont'd)

total of 2,450 gallons/day. See **Attachment A** of this Fact Sheet for location map depicting the wastewater collection system.

- d. Wastewater Treatment: Approximately 85% of all the wastewater generated at the facility will be recycled in the washing process. The 12/11/09 report by Hydroterra describes the wastewater treatment system as follows.

“All car washwater will be captured and recovered at the catch basins. The captured water will be directed through a collection main to the first compartment of tank 1 (sand and grease trap). The water will continue through the tank across each of the two equally spaced internal tank weirs. A submersible pump located in the last compartment of tank 2 will transfer through an in line basket strainer, mass air injection port and centrifugeal separator for discharge to the first compartment of tank 2. This water stream will also be treated with a proprietary enzyme component. The solids removal port of the centrifugal separator will be directed to the automatic car wash bay catch basin. When the liquid level of tank 2 is at capacity, as determined by a liquid level float, the “clear water” discharge of the separator will be directed to tank 1(holding tank). The Conserve, Series 1, equipment platform will be used to continue to clean the water stored in tank 1. This process will include the addition of ozone to the water stream and continued process through an automatic back washing, self cleaning, filter element. The containment captured during the cleaning process will be returned to the catch basin located in the automatic car wash bay. The Series 1 equipment platform will also pressure the treated water for use in the automatic car wash operation. When the primary holding tank is filled to capacity and the high float is raised, a portion of the processed and treated wastewater is diverted to the carbon polishing filters and presented to the sub-surface retention and discharge system. A pressurized sampling valve will be provided at the carbon filter outflow.” In January of 2014 two additional carbon filters were placed online. See **Attachment B** of this Fact Sheet for the layout of the facility and Attachment C for the location of the leach field and monitoring well locations.

## 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 must 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 must be the highest classification and must be of such quality that it can be used for public drinking water supplies. These waters must 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: The monthly average flow limitation of 2,500 gallons per day and monitoring frequency of once per day is being carried forward in this licensing action based on the design of the system. The Department reviewed DMRs that were submitted for the period March 2010 – May 2014. A review of data indicates the following:

**Flow (n=5)**

Value	Limit (gpd)	Minimum (gpd)	Maximum (gpd)	Mean (gpd)
Daily Maximum	2,500	89	249	168

- b. Specific conductance, temperature and pH – These parameters and their quarterly monitoring frequencies are being carried forward from the previous licensing action as they are indicators of pollutant loading to the sub-surface wastewater disposal system. The greater the pollutant loading the greater the potential for ground water contamination. It is noted there are secondary drinking water standards for TDS and pH of 500 mg/L and 6.5-8.5 S.U., respectively.

The Department reviewed DMRs that were submitted for the period March 2010 – June 2014. A review of data indicates the following:

**Specific Conductance (n=4)**

Limit	Minimum (umhos/cm)	Maximum (umhos/cm)	Mean (umhos/cm)
Report	603	5,400	2,423

**Temperature (n=4)**

Limit	Minimum (°F)	Maximum (°F)	Mean (°F)
Report	51	74	60

**pH (n=1)**

Limit	Result (S.U.)
6.0 – 9.0	7.1

- c. Lead, Extractable Petroleum Hydrocarbons (EPH) and Volatile Petroleum Hydrocarbons (EPH) are all constituents of petroleum products that are washed from vehicles and could be in the wastewaters at levels of concern. These parameters, their quarterly monitoring frequencies and their applicable limits are being carried forward in this license. It is noted that the facility exceeded the following EPH constituents: C-9–C-18 Aliphatics and C-11 – C-22 Aliphatics in March of 2012 and C-9–C-18 Aliphatics, in March 2013. It is noted that in January 2014 two additional carbon filters were placed online. The Department reviewed DMRs that were submitted for the period March 2010 – June 2014. A review of data indicates the following:

**Lead (n=4)**

Limit	Minimum (mg/L)	Maximum (mg/L)	Mean (mg/L)
0.015 mg/L	0.0	5.0	1.7

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

Outfall #001:

**EPH (n=3)**

Parameter	Limit (µg/L)	Minimum (µg/L)	Maximum (µg/L)	Mean (µg/L)
C-9-C-18 Aliphatics	700	140	6,100	2,547
C-19-C-36 Aliphatics	10,000	550	1,500	917
C-11 – C-22 Aliphatics	200	100	610	270

**VPH (n=3)**

Parameter	Limit (µg/L)	Minimum (µg/L)	Maximum (µg/L)	Mean (µg/L)
C-5-C-8 Aliphatics	300	100	100	100
C-9-C-12 Aliphatics	700	100	100	100
C-9 – C-10 Aliphatics	200	100	100	100

- d. Chlorides – Chlorides are washed from vehicles during the winter season and present in the wastewater. Monitoring for this parameter from Outfall #001 will provide data on concentrations being introduced into the ground water. This permitting action is carrying forward the previous monitoring frequency requirement of twice per year and a monthly average limit of 250 mg/L.

The Department reviewed DMRs that were submitted for the period March 2010 – June 2014. It is noted that the facility exceeded the chloride limit during March 2013 and March 2014 with a result of 780 mg/L and 1,600 mg/l, respectively. A review of data indicates the following:

**Chloride (n=4)**

Limit (mg/L)	Minimum (mg/L)	Maximum (mg/L)	Mean (mg/L)
250	33	1,600	651

Ground Water Monitoring Wells (GW-1 and GW-2: GW-1 and GW-2 (Compliance Outfalls # GW1A, and GW2A) ground water monitoring was required in Special Condition A.3 of the previous license. However, using best professional judgment the Department has made the determination that given compliance with ground water quality standards can be measured after treatment and before entering the leachfield system at Outfall #001, monitoring the ground water monitoring wells is unnecessary and not consistent with other like permits. Therefore, this permitting action is eliminating the requirement to monitor ground water monitoring wells GW-1 and GW-2.

The Department reviewed DMRs that were submitted for the period March 2010 – June 2014. A review of data indicates the following:

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

Ground Water Monitoring Wells (GW-1 and GW-2):

**Depth to Water Level Below Land Surface (n=1)**

Monitoring Well ID	Limit	Report (inches)
GW-1	Report	85
GW-2		101

**Specific Conductance (n=1)**

Monitoring Well ID	Limit	Result (umhos/cm)
GW-1	Report	260
GW-2		207

**Temperature (n=1)**

Monitoring Well ID	Limit	Result (°F)
GW-1	Report	60
GW-2		57

**pH (n=1)**

Monitoring Well ID	Limit (S.U.)	Result (S.U.)
GW-1	6.0 – 8.5	6.4
GW-2		6.0

**TSS**

Monitoring Well ID	Limit	Result (mg/L)
GW-1	Report	4
GW-2		33

**Lead (n=1)**

Monitoring Well ID	Limit (mg/L)	Result (mg/L)
GW-1	0.015	0.002
GW-2		0.004

**Chloride (n=1)**

Monitoring Well ID	Limit (mg/L)	Result (mg/L)
GW-1	250	27
GW-2		13

**E**

## **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 Journal Tribune newspaper on or about December 18, 2014. 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 licenses must 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**

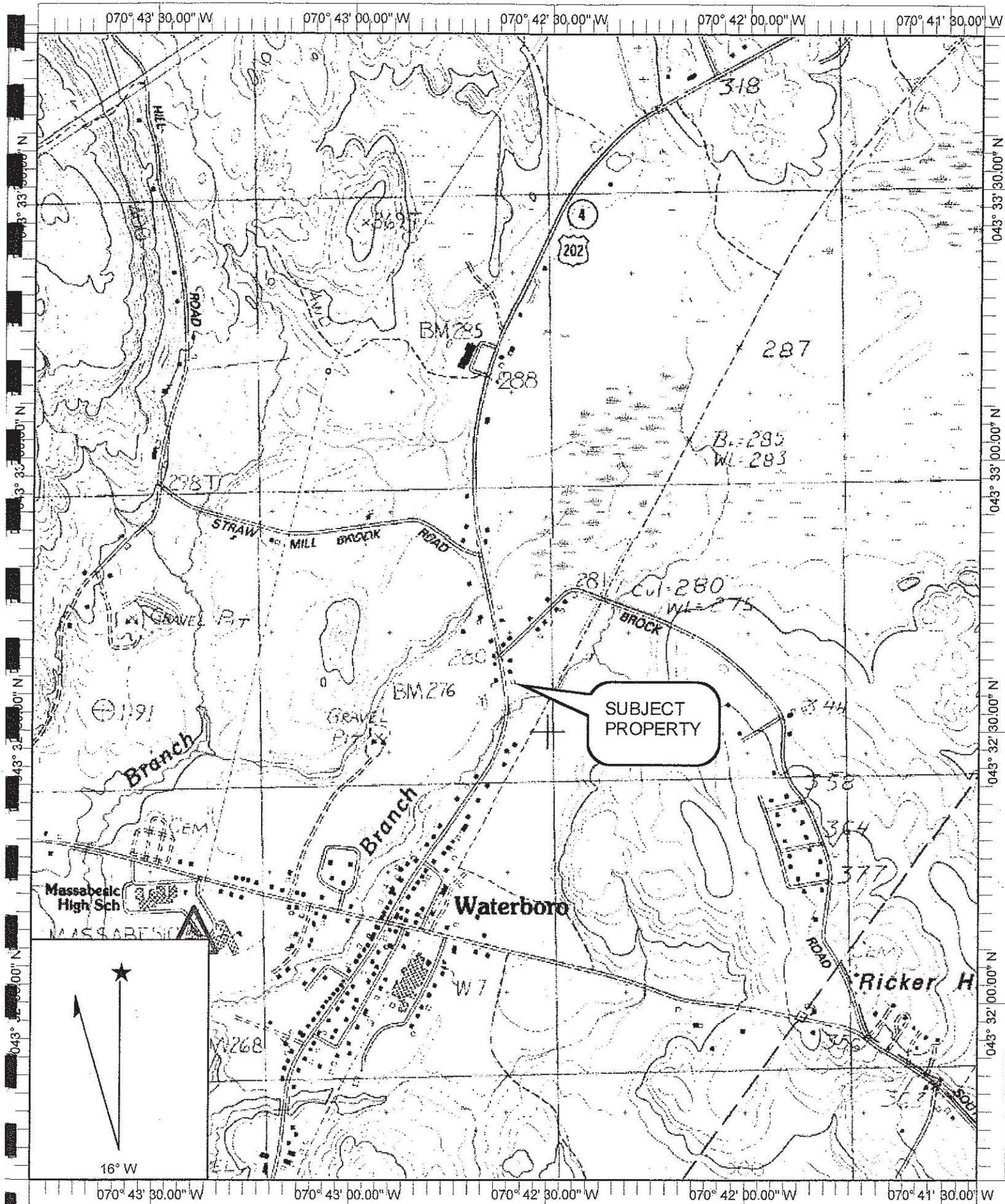
Additional information concerning this licensing action may be obtained from, and written comments sent to:

Yvette Meunier  
Division of Water Quality Management  
Bureau of Land & Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 215-1579  
e-mail: [yvette.meunier@maine.gov](mailto:yvette.meunier@maine.gov)

## **9. RESPONSE TO COMMENTS**

*Reserved until the end of the public comment period.*

# ATTACHMENT A

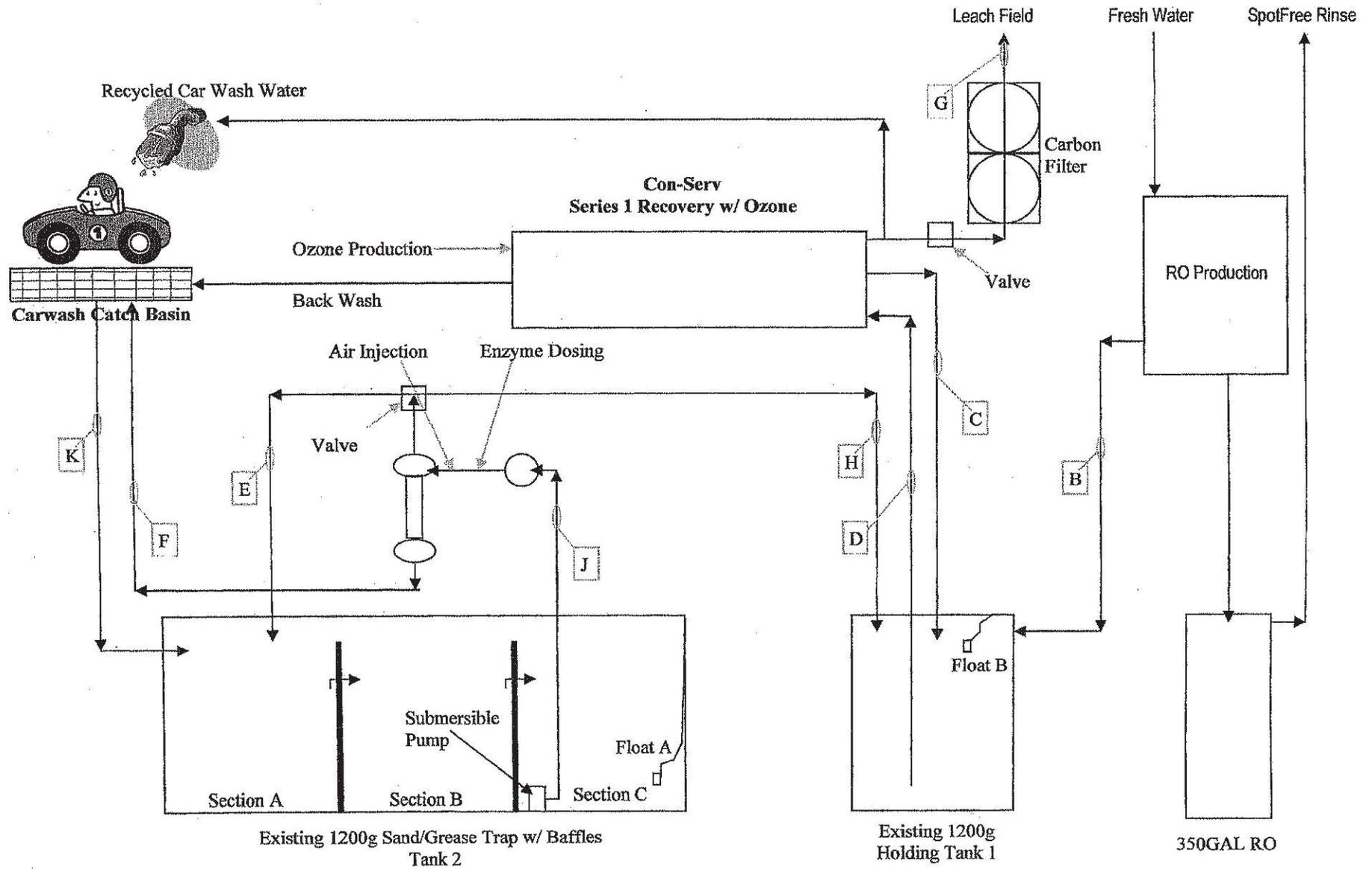


Name: WATERBORO  
 Date: 9/8/2009  
 Scale: 1 inch equals 1333 feet

Location: 043° 32' 43.74" N 070° 42' 36.78" W  
 Caption: FIGURE 1 LOCATION MAP

# ATTACHMENT B

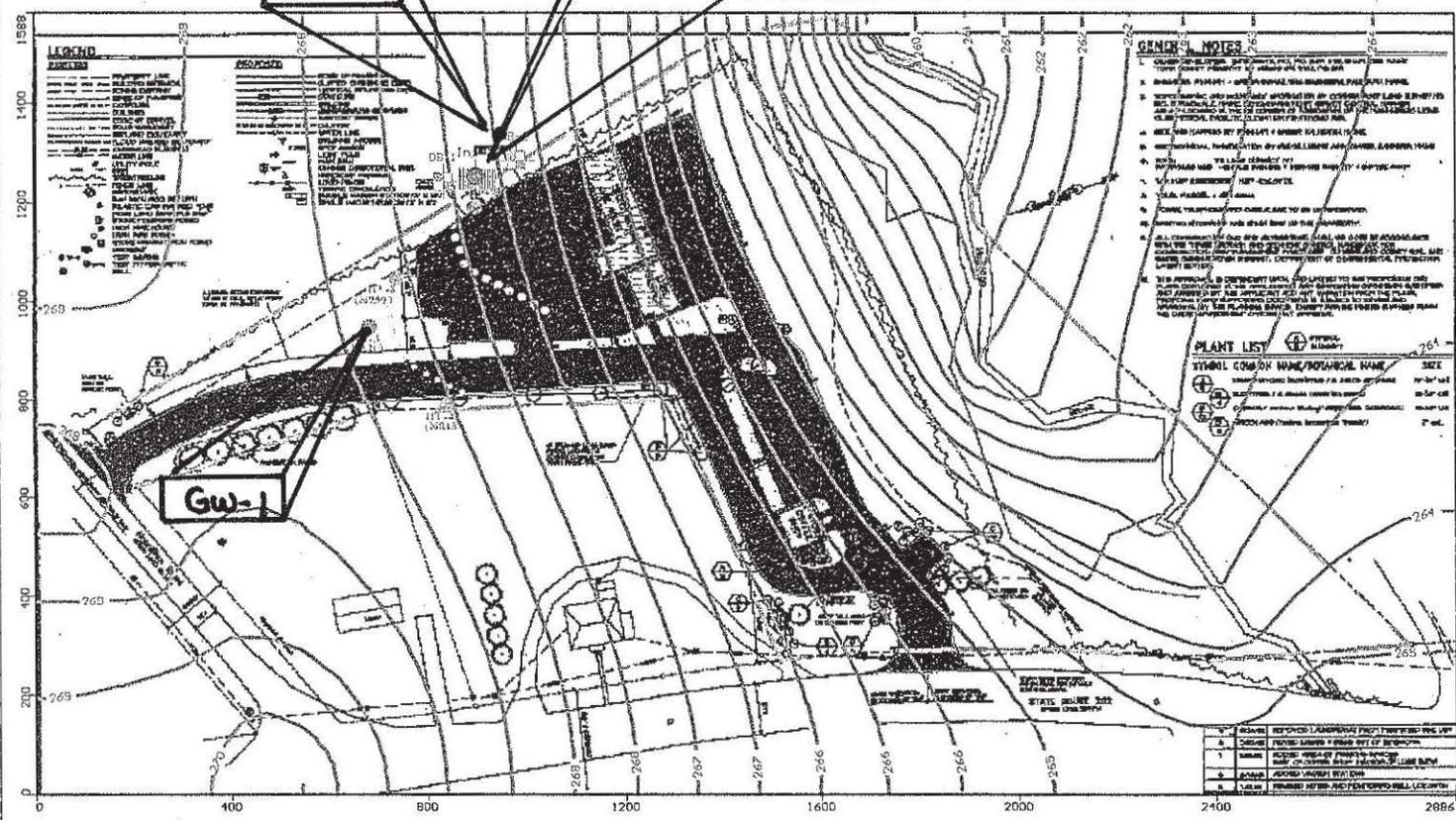
**WATERWAYS CAR WASH, WATERBORO, MAINE**  
**SINGLE BAY AUTOMATIC, SINGLE BAY SELF SERVE, DOG WASH**  
**WATER PROCESS AND TREATMENT SYSTEM**  
 12.09.09 Revision III



# ATTACHMENT C

**LEACHFIELD**

**FIGURE 5 MODEL SIMULATED STATIC GROUNDWATER ELEVATIONS**



HYDROTERRA Environmental Services  
 Project: Waterways Car Wash  
 Description: Mounding Analysis  
 Modeller: J McKenna  
 12 Sep 09

Visual MODFLOW v.2.5.2, (C) 1995-1999  
 Waterloo Hydrogeologic, Inc.  
 NC: 40 NR: 40 NL: 1  
 Current Layer: 1

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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**A. GENERAL PROVISIONS**

**1. General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

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

- (a) They are not
  - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
  - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

**3. Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**4. Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**5. Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**6. Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

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**7. Oil and hazardous substances.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

**8. Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

**9. Confidentiality of records.** 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

**10. Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

**11. Other laws.** The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

**12. Inspection and entry.** The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**B. OPERATION AND MAINTENANCE OF FACILITIES**

**1. General facility requirements.**

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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

**2. Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**3. Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**4. Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**5. Bypasses.**

- (a) Definitions.
  - (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
  - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c) Notice.
  - (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
  - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (C) The permittee submitted notices as required under paragraph (c) of this section.
  - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

**6. Upsets.**

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (ii) The permitted facility was at the time being properly operated; and
  - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
  - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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**C. MONITORING AND RECORDS**

**1. General Requirements.** This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

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

**3. Monitoring and records.**

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed;
  - (iv) The individual(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**2. Signatory requirement.** All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**3. Availability of reports.** Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

**4. Existing manufacturing, commercial, mining, and silvicultural dischargers.** In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);

(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (i) Five hundred micrograms per liter (500 ug/l);
  - (ii) One milligram per liter (1 mg/l) for antimony;
  - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

### 5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
  - (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
  - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

## E. OTHER REQUIREMENTS

**1. Emergency action - power failure.** Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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**2. Spill prevention.** (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminates and shall specify means of disposal and or treatment to be used.

**3. Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

**4. Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

**F. DEFINITIONS.** For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

**Average** means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

**Average monthly discharge limitation** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

**Average weekly discharge limitation** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best management practices ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Composite sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

**Continuous discharge** means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**Daily discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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**Discharge Monitoring Report ("DMR")** means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

**Flow weighted composite sample** means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

**Grab sample** means an individual sample collected in a period of less than 15 minutes.

**Interference** means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

**Maximum daily discharge limitation** means the highest allowable daily discharge.

**New source** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

**Pass through** means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

**Permit** means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

**Person** means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**Point source** means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

**Pollutant** means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Process wastewater** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

**Publicly owned treatment works ("POTW")** means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

**Septage** means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

**Time weighted composite** means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

**Toxic pollutant** includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

**Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Whole effluent toxicity** means the aggregate toxic effect of an effluent measured directly by a toxicity test.



# 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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