

IN THE MATTER OF:

<b>Regional Waste Systems, Inc.’s Merger into</b>	)	<b>LICENSE</b>
<b>ecomaine, involving Solid Waste Landfills</b>	)	<b>TRANSFERS</b>
<b>and Composting Facilities, and a Waste-to-</b>	)	
<b>Energy Facility, in Portland, Westbrook,</b>	)	<b>(Solid Waste Landfill;</b>
<b>South Portland, and Scarborough, Maine</b>	)	<b>Composting; and Air</b>
	)	<b>Emissions)</b>

Pursuant to Maine law, 38 M.R.S.A. §§1301-1319Y and 581-610-A, Maine Department of Environmental Protection (“Maine DEP”) regulations promulgated pursuant to these laws; and the *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2 (effective April 1, 2003), the Maine DEP has considered the application of ECO MAINE a/k/a **ecomaine** and Regional Waste Systems, Inc. (“RWS”) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**1. APPLICATION SUMMARY**

**A. Application.** **ecomaine** submitted an application to Maine DEP for the transfer of licenses. The application sought to transfer to **ecomaine** all active Maine DEP licenses, as defined in 06-096 CMR 2.1(J), any modifications, condition compliance orders, all other approvals, and all applications pending in the name of RWS relating to a waste to energy facility in Portland, Maine; and a solid waste landfill and composting facility in Scarborough and South Portland, Maine (or collectively the “Facilities”). A schedule of permits and applications that were the subject of that application, and this Department Order, is set forth in Appendix A. Maine DEP accepted **ecomaine**’s license transfer application as complete for processing on September 11, 2006.

**B. History**

- (1) The Transaction.** On July 1, 2006, RWS merged into **ecomaine**, a non-profit quasi-municipal Maine corporation, and thereby took title to all wholly owned assets of RWS located in Maine.
- (2) Operations.** RWS’s operations included a waste-to-energy facility located at 64 Blueberry Road, Portland, Maine; and a solid waste landfill and composting facility located in Scarborough/South Portland, Maine, the street address of which is 85 Scott Drive, Westbrook, Maine.

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## 2. TRANSFER REQUIREMENTS

The following information regarding **ecomaine** and RWS was submitted in support of the transfer application:

**A. Full Name and Address.** The full name and address of the new owner is:

**ecomaine**

64 Blueberry Road

Portland, Maine 04102

**B. Certification.** **ecomaine** certifies that there will be no increase in air emissions beyond that provided for in the existing licenses, either in quantity or type.

**C. Title, Right, or Interest.** **ecomaine** submitted copies of Articles of Merger, and an Agreement and Plan of Merger, executed by Duane Kline, Treasurer, of RWS, and Jeffrey Jordan, Chairman, Board of Directors, of **ecomaine**. The Articles evidence a transfer of assets and real property resulting from the merger of RWS into **ecomaine**. The parties have provided sufficient evidence of title, right, or interest in the Facilities to allow the transfer to **ecomaine** of the Facilities' licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, and pending applications.

**D. Financial Capacity and Intent.** **ecomaine** submitted a statement from Rocco Marzilli, Jr., Director of Finance and Administration, documenting **ecomaine**'s financial ability to comply with the all conditions of applicable Maine DEP licenses and satisfy all applicable statutory criteria, including closure and post-closure care costs for the landfills. The statement provides that as of December 31, 2005, the tangible net worth of **ecomaine** was (\$18,794,983), including total assets of \$103,989,559. **ecomaine** has demonstrated sufficient financial capacity and intent to assure compliance with all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, pending applications, as well as any statutory and regulatory criteria applicable to the facilities.

**E. Technical Capacity and Intent.** The merger entailed no changes in operating personnel. **ecomaine** submitted resumes of employees responsible for environmental compliance which satisfactorily document their technical ability to operate the facility in accordance with applicable laws, regulations, and license and permit conditions. The Facilities' regulatory history with the Maine DEP demonstrates that the environmental personnel are competent to properly manage the Facilities. The information submitted in the application provides sufficient evidence that **ecomaine** has the technical capacity and intent to comply with all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, pending applications, and any statutory and regulatory criteria applicable to the

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facilities. The Department finds that recent environmental violations for which the facility has been cited are not sufficient to warrant denial of the transfer of the air emissions license to **ecomaine**.

**F. Solid Waste Facility Requirements.** The disclosure statement provided by **ecomaine** in accordance with the *General Provisions*, 06-096 CMR 400.12, of Maine's solid waste management rules reveals that the corporation, and its directors and operator have no record of any criminal, civil violations or consent decrees in the last five years.

BASED ON THE ABOVE FINDINGS OF FACT, the Maine DEP CONCLUDES that **ecomaine** has demonstrated the technical and financial capacity and intent to comply with the conditions of all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders and pending applications associated with the facilities described in this Order's findings, including specifically those licenses and applications listed in Appendix A, and to satisfy all applicable statutory and regulatory criteria.

THEREFORE the Maine DEP APPROVES the application of **ecomaine**.

DONE AND DATED AT AUGUSTA, MAINE THIS \_\_\_\_\_ DAY OF OCTOBER 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
David P. Littell, Commissioner

**PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES**

Date of initial receipt of application: August 28, 2006

Date application accepted for processing: September 11, 2006

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

Order written by: Malcolm C. Burson  
Office of the Commissioner

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**APPENDIX A: CURRENT LICENSES AND APPLICATIONS**

<b>AIR QUALITY ORDERS</b>		
<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>APPROVED</b>
<b>AIR EMISSIONS LICENSES:</b>		
<i>A-283-70-A-I</i>	INCINERATOR AIR EMISSIONS LICENSE	12/14/05
<i>A-283-70-B-A</i>	AMENDMENT TO A-283-70-A-I	1/25/06
(unnumbered)	REMOVE CONDITION 14(C) FROM AIR EMISSION LICENSE A-283-70-A-I	In process
<i>A-697-71-B-R</i>	BALEFILL CLOSURE AIR EMISSIONS LICENSE	7/23/02

<b>SOLID WASTE ORDERS</b>		
<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>APPROVED</b>
<b>SOLID WASTE LICENSES:</b>		
<i>L-010993-05-B-N</i>	INCINERATOR SOLID WASTE FACILITY AND SITE LOCATION OF DEVELOPMENT LICENSE	Renewal in process
<i>L-013127-WD-A-N</i>	ASHFILL/BALEFILL SOLID WASTE FACILITY LICENSE	7/5/86
<i>S-013127-WD-AH-N</i>	ASHFILL/BALEFILL EXPANSION SOLID WASTE FACILITY LICENSE	5/26/04
<i>S-1171-WO-U-N</i>	BALEFILL CLOSURE SOLID WASTE LICENSE	1/14/98
<i>S-020211-CB-A-P</i>	PERMIT-BY-RULE COMPOST FACILITY	8/4/89
<i>S-013127-WS-AF-N</i>	PUBLIC BENEFIT DETERMINATION – ASHFILL/BALEFILL FACILITY	5/18/01