Draft Proposed Board Order (staff recommendation)

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IN THE MATTER OF

BORALEX ASHLAND LP	) APPEAL OF SOLID
ASHLAND, AROOSTOOK COUNTY, MAINE	) WASTE LICENSE
WOOD ASH UTILIZATION PROGRAM LICENSE	) FINDINGS OF FACT
#S-021177-SE-G-M	) AND ORDER
	) (DENIED)

Pursuant to the provisions of the *Maine Hazardous Waste, Septage and Solid Waste Management Act* 38 MRSA §§ 1301 to 1319-Y, the *Solid Waste Management Rules: General Provisions*, 06-096 CMR 400 (last amended February 18, 2009, the *Solid Waste Management Rules: Water Quality Monitoring, Leachate Monitoring and Waste Characterization*, 06-096 CMR 405 (last amended June 16, 2006), the *Solid Waste Management Rules: Beneficial Use of Solid Wastes*, 06-096 CMR 418 (last amended June 16, 2006), the *Solid Waste Management Rules: Agronomic Utilization of Residuals* (last amended December 19, 1999), and the *Rules Concerning the Processing of Applications*, 06-096 CMR 2 (effective April 1, 2003), the Board of Environmental Protection (Board) has considered the appeal filed by Boralex Ashland LP (Boralex Asland, licensee or appellant), of the Department's approval of the above noted license application. Based upon materials in the Department's file and materials submitted by the licensee, the Board finds the following facts:

1. HISTORY

A. Licensing History:

(1) On November 4, 1993, the Department issued Order #S-021177-SE-A-N which approved a woodash utilization program for Northeast Empire Limited Partnership #2 (NELP#2).

(2) On May 9, 2002, the Department issued Order #S-021177-SX-D-T which approved the transfer of NELP#2's Department-issued licenses to Boralex Ashland, Inc. (BAI).

(3) On June 21, 2002, the Department issued Order #S-021177-SE-B-R which renewed BAI's woodash utilization program license, and approved the transition of their program into the new requirements of 06-096 CMR 419, which replaced *Rules for Land Application of Sludge and Residuals*, 06-096 CMR 567 (last amended January 4, 1994, repealed and replaced July 19, 1999).

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BORALEX ASHLAND LP
ASHLAND, AROOSTOOK COUNTY, MAINE
WOOD ASH UTILIZATION PROGRAM LICENSE
#S-021177-SE-G-M

2) APPEAL OF SOLID
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(4) On January 8, 2007, the Department issued Order #S-021177-SX-H-T which approved the transfer of BAI's Department-issued licenses to Boralex Ashland LP (Boralex Ashland).

(5) On June 24, 2009, the Department issued Order #S-021177-SE-G-M which approved, with conditions, the request by Boralex Ashland to modify its wood ash utilization program license. The Department issued Order #S-021177-SE-G-M subject to the following relevant conditions (Special Conditions #3 and #4):

(a) Prior to using any site for the land application of wood ash exceeding the (2,250 mg/kg) screening standard in 06-096 CMR 418, Appendix A for manganese (Mn) the applicant shall representatively sample and analyze the soil once for (background) Mn; and

(b) At any site used for the land application of wood ash exceeding the (2,250 mg/kg) screening standard in 06-096 CMR 418, Appendix A for Mn:

(i) The SI[1] shall be estimated in accordance with the calculations in 06-096 CMR 419, Appendix A(2)(C) and use of the site shall be limited such that the combined total of the SI plus the soil background concentration does not exceed the (2,250 mg/kg) screening standard in 06-096 CMR 418, Appendix A for Mn; and

(ii) The useful life of the site shall be limited such that should the level of Mn increase, site life is adjusted downward to ensure that the SI plus the soil background concentration does not exceed the (2,250 mg/kg) screening standard in 06-096 CMR 418, Appendix A for Mn.

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[1] SI - Cumulative soil concentration increase in mg-pollutant/kg-soil

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BORALEX ASHLAND LP ASHLAND, AROOSTOOK COUNTY, MAINE WOOD ASH UTILIZATION PROGRAM LICENSE #S-021177-SE-G-M	3) APPEAL OF SOLID) WASTE LICENSE) FINDINGS OF FACT) AND ORDER) (DENIED)

(6) On July 29, 2009, Boralex Ashland LP submitted a timely appeal of the Commissioner's license approval. The applicant appealed Special Conditions #3 and #4 of Department Order #S-021177-BE-SE-G-M. The appeal included several exhibits that were not part of the Department's file when the Department issued its decision on the application on June 24, 2009.

(7) On September 9, 2009, Board Chair Susan Lessard ruled that the supplemental evidence submitted by the appellant is relevant and material and, therefore, admitted into the administrative record.

B. Timeline of Licensing Proceedings:

The proceedings that led to Department Order #S-021177-SE-G-M are as follows:

(1) On September 11, 2006, an application ("the application") was received by the Department from Boralex Ashland LP requesting modification of wood ash utilization program license (Department Order #S-021177-SE-B-R) to: apply wood ash at a rate based on the liming requirements of the soil or on the crop uptake rate for phosphorus—whichever is most limiting—and not on the potassium requirements of the soil; and, not analyze for soil fertility on farmland when woodash is distributed through direct sales. The project application identified New England Organics as the agent/contact. On October 2, 2006, the application was accepted as complete for processing.

(2) On December 18, 2006, based on data submitted by another local wood ash generator, Louisiana Pacific Corporation (LP Corp), the Department became aware that background levels of Mn in Aroostook County soils are highly variable. The data submitted by LP Corp showed levels as low as less than 0.76 mg/kg and as high as 2,000 mg/kg. Based on this data, Department staff began informing licensed ash generators of the need to modify their ash utilization program license to address this variability since the highest level was approaching the 06-096 CMR 418 Appendix A screening standard of 2,250 mg/kg for Mn. This information was communicated to the applicant on September 4, 2007.

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BORALEX ASHLAND LP ASHLAND, AROOSTOOK COUNTY, MAINE WOOD ASH UTILIZATION PROGRAM LICENSE #S-021177-SE-G-M	4) APPEAL OF SOLID) WASTE LICENSE) FINDINGS OF FACT) AND ORDER) (DENIED)

(3) On December 21, 2006, the Department received from the applicant an e-mail and relevant attachments requesting the Department's review of supplemental information relative to Department application #S-021177-SE-G-M. The supplemental information was provided as a result of communication between the Department and the applicant concerning Mn in the wood ash. The supplemental information consisted of the applicant's request to allow continued distribution of wood ash having a concentration exceeding the screening standard in 06-096 CMR 418, Appendix A for Mn; calculations referenced to 06-096 CMR 419, Appendix A estimating soil pollutant concentration increase based on residual pollutant concentration for Mn, and a letter, dated December 18, 2006, requesting review of the supplemental information for a variance for Mn levels to be reviewed as part of Boralex Ashland's pending minor revision application (#S-0-21177-SE-G-M).

(4) On September 4, 2007, the Department mailed to the applicant a cover letter and a draft of Department Order #S-021177-SE-G-M. The cover letter indicated that the draft order would be submitted on or about September 21, 2007 for final agency action.

(5) On September 27, 2007, the Department's project analyst submitted the draft order to the Department's Bureau of Remediation and Waste Management clerical staff for final agency action (i.e., Commissioner's approval).

(6) On November 20, 2007, the applicant telephoned and discussed with the Department's project analyst the draft order #S-021177-SE-G-M and requested additional time to review the draft order. The Department's project analyst immediately telephoned the Department's clerical staff to request the temporary suspension of final agency action on draft order #S-021177-SE-G-M to allow additional review as requested by the applicant. Department clerical staff subsequently notified the Department's project analyst that final agency action on draft of order #S-021177-SE-G-M would be suspended to afford the applicant additional time for review.

(7) On November 21, 2007, immediately following a telephone conversation with the applicant, the Department e-mailed to the

applicant an electronic version of draft order #S-021177-SE-G-M. Later that day, the Department received from the applicant an electronic version of the draft order #S-021177-SE-G-M with suggested edits. Relevant suggested edits consisted of deleting references to the continued use or distribution of wood ash having a concentration of Mn in excess of the screening standard in 06-096 CMR 418, Appendix A, and to the one-time sampling and analyzing of soil for background Mn and the reporting of the results of the soil analysis to the Department within 30 days of receipt.

(8) In response to a request in a telephone conversation on May 1, 2008, the Department e-mailed to Boralex Ashland's environmental manager a copy of draft order #S-021177-SE-G-M containing edits suggested by the applicant. Later that same day, the Department received from Boralex Ashland's environmental manager an e-mail indicating that he had finished updating the draft of order #S-021177-SE-G-M with his edits which he needed to pass by others for input prior to sending it back to the Department.

(9) In e-mails on July 7, 2008, the Department asked Boralex Ashland's environmental manager if input had been received from other reviewers on draft order #S-021177-SE-G-M. Boralex Ashland's environmental manager responded that he had not.

(10) On July 25, 2008, the applicant telephoned the Department to discuss the expense and necessity of soil testing at wood ash utilization sites. Subsequent to the telephone conversation, the applicant e-mailed to the Department Maine Soil Testing Service's analytical lab soil test price list information to illustrate the cost for individual soil test.

(11) On July 29, 2008, the Department received from the applicant's environmental manager an e-mail that included a copy of draft order #S-021177-SE-G-M containing suggested edits.

(12) On February 25, 2009, the Department faxed to the applicant a revised copy of draft order #S-021177-SE-G-M for review/comment.

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(13) On February 27, 2009, the applicant telephoned the Department to discuss the recent revisions to draft order #S-021177-SE-G-M. In that telephone conversation, the applicant requested additional time to review and comment on the revisions to draft order #S-021177-SE-G-M, to which the Department obliged.

(14) On March 10, 2009, in a meeting at the Department's Northern Maine Regional Office in Presque Isle, the Department met with the applicant to discuss/clarify items related to draft order #S-021177-SE-G-M.

(15) In an e-mail, dated June 1, 2009, the applicant expressed appreciation to the Department for not yet issuing a final order, and that the Department should expect a call from the applicant's agent to further discuss the issue of soil testing for Mn.

(16) In an e-mail, dated June 12, 2009, the Department informed the applicant that it was time for the Department to proceed with obtaining final agency action on the order. The e-mail briefly reiterated and summarized the rationale for the Department's position on testing utilization site soil for background Mn.

(17) The subject order (Department Order #S-021177-SE-G-M) was issued on June 24, 2009, and filed with the Board on June 29, 2009.

2. BASIS FOR APPEAL OF THE DEPARTMENT LICENSE and RESPONSE TO THE APPEAL:

A. <u>Inconsistency with the "No Site License" Program for Ash</u>:

(1) The appellant asserts that the imposition of Special Conditions #3 and #4 is a change that is inconsistent with the "no site license" program established in 06-096 CMR 419.

The appellant further asserts that since the Department issued an amendment to its original license to bring its ash program into compliance with 06-096 CMR 419, it should not be required to test utilization site soils for Mn. The appellant goes on to explain that in the original program license, there is no finding regarding elevated levels of Mn in the ash. The applicant presumes the reason for this

is because the Department did not have a standard applicable to Mn in ash that was destined for agronomic use.

(2) The Board finds that neither the appellant's program license nor the license minor revision in question (Department Order #S-021177-SE-G-M) requires site-specific licenses for ash utilization sites. If that were the case, each proposed ash utilization site would need to be licensed pursuant to 06-096 CMR 419. If site-specific licenses were required for all of the appellant's ash utilization sites, each site would be subject to application fees, annual licensing fees, annual reporting fees after the initial five-year period, record-keeping requirements, and annual reporting requirements. The Board finds that Department Order #S-021177-SE-G-M does not require that the appellant obtain a site specific license for individual utilization sites for ash that exceeds the screening concentration in 06-096 CMR 418 Appendix A for Mn. Rather the appellant must perform a one-time analysis on utilization site soils to ensure that application of ash which exceeds the screening standards for 06-096 CMR 418, Appendix A does not pose a risk to public health or the environment. The Board further finds that the appellant was already required by Department Order #S-021177-SE-B-R to analyze utilization site soils for baseline soil fertility to prevent over-application of nutrients though the appellant's approved sampling and analytical plan did not specify who would pay for the soil analyses.

B. <u>Use of 06-096 CMR 418 Appendix A Standards for Agronomic Utilization Sites</u>:

(1) The appellant argues that the solid waste rules are clear that the screening standards in 06-096 418 Appendix A are to be used to screen for hazardous substances other than metals. The appellant further asserts that 06-096 419(1)(D) states that agronomic utilization is a type of beneficial use and that generators proposing to beneficially use solid waste or waste derived products in a manner that does not constitute agronomic utilization must meet the applicable standards of 06-096 CMR 418. Therefore, the appellant concludes that this suggests that the standards in 06-096 CMR 418 are intended to apply to beneficial uses other than agronomic

utilization and precludes using 06-096 CMR 418 Appendix A to regulate the agronomic utilization of wood ash.

(2) The Board finds that based on information contained in the United States Department of Health and Human Service's Public Health Statement for Manganese, dated September 2000, exposure (e.g., through inhalation) to high levels of Mn may cause human health effects such as manganism—a disease that occurs because too much manganese injures a part of the brain that helps control body movements. Symptoms most commonly observed in occupational workers include difficulty in motor skills such as holding one's hand steady, performing fast hand movements, and maintaining balance. In the document *Ecological Soil Screening Levels for Mn, Interim Final*, OSWER Directive 9285.7-71, dated April 2007, the United States Environmental Protection Agency (USEPA) identifies Mn as a contaminant of potential concern and reports that in animals high levels of Mn may produce neurotoxic responses such as hypoactivity, nervousness, tremors, and ataxia. Other reported effects include liver damage and decreased growth. The Board further finds that the appellant's contention that the Department does not have a direct standard in 06-096 CMR 419 applicable to Mn in ash destined for agronomic use is correct. However, residual characterization in 06-096 CMR 405(6)(D)(2)(d) includes the parameter Mn. In a review of the *Response to Comments: Chapter 419, Agronomic Utilization of Residuals*, dated June 23, 1999, there appears to be no indication of discussion specifically on the matter of Mn during the rule-making process. However, in excerpts from a preliminary draft, dated December 3, 1998, of the Technical Support Document relative to the development of 06-096 CMR 419, author David Wright (then-supervisor of the Department's Residuals Utilization Unit) appears to give some insight into the development of standards relative to the analysis of residuals and utilization site soil: *hazardous substances have been detected from time to time in residuals generated in Maine. These hazardous substances are often divided into general categories based on the methods used to analyze for them, such as volatile compounds and acid/base-neutral compounds, or by specific chemical classes such as poly-chlorinated biphenyls (PCBs) or dioxins. Sludge or residuals generated in industrial settings have the potential to contain these hazardous substances and, therefore,* ***Chapter 405 of the rules requires that***

generators test for these compounds before utilization. (emphasis added)

Wright goes on to say that *once residual concentration standards were established,* ***the Department established screening standards for soil at utilization sites.*** (emphasis added) *For sewage sludge, the Department used, when possible, the risk assessment for heavy metals done for the federal regulation by ERG (Eastern Research Group, 1992, Technical Support Document for Land Application of Sewage Sludge, Vol. I & II, prepared for USEPA, 401 M Street S.W., Washington D.C., document number PB93-1105757). For other parameters in sewage sludge, the Department was able to conservatively estimate how much sludge would be utilized at a site, based on the nitrogen content of sludge and conservative utilization practices. The Department used the approach in ERG, 1992 to back-calculate acceptable soil concentrations based on acceptable sludge concentrations. The acceptable cumulative pollutant loading rate was set to the residual screening level. Conservative assumptions include a loading rate of 10 metric tons/acre for 100 years in a row.*

However, for other residuals*, it is not possible to a priori determine what the loading rate will be because the nitrogen content of the residual cannot be determined for all residuals,* ***and the agronomic benefit may in fact not be nitrogen loading****. The formulas used to establish appropriate residual concentrations based on actual loading rates are included in appendix 419.B of the rule, and will be established during the licensing process.* (emphasis added)

The soil screening standards *were then adjusted upwards (less conservative) in cases where typical background concentrations would exceed the calculated soil concentration. In these cases, the soil standard was established as the upper background range for soil.* (emphasis added)

Wright concludes that these ***guidelines are designed to protect a highly exposed individual ingesting either soil or groundwater contaminated by soil. The approach of screening residual concentrations against guidelines developed for soil errs on the side of protecting human health since the approach does not take***

into account the dilution, volatilization and degradation that may reduce contaminant concentrations at the utilization site. (emphasis added)

While Mn does not appear to have been specifically mentioned or identified by Wright in the supporting documentation for the development of 06-096 CMR 419, the Department contends that it is apparent that concentrations of contaminants in site soils were of concern and that parameters, including Mn, listed in 06-096 CMR 405(6)(D)(2)(d) and in 06-096 CMR 418, Appendix A were intended to address such contaminants relative to 06-096 CMR 419(5)(A)(6).

The Board finds that in the absence of a risk-based Mn standard in 06-096 CMR 419, the Department correctly applied the standard in 06-096 CMR 418, Appendix A in order to protect human health and the environment.

(3) The appellant argues that applying the standards in 06-096 CMR 418, Appendix A is not appropriate since the Department has not conducted a risk assessment or adjusted the screening standard in 06-096 CMR 418, Appendix A to account for the calcium carbonate equivalence of the ash, exposure pathways of concern, or for the availability of manganese in ash amended soils. The appellant further argues that the Mn screening standard in 06-096 CMR 418, Appendix A is not appropriate because the standard applied to the appellant's woodash represents the USEPA screening standard for residential ingestion. The appellant questioned whether a residential ingestion standard is appropriate for agronomic use.

(4) The Board finds that the screening standards in 06-096 CMR 418, Appendix A are risk-based standards. The screening standards in 06-096 CMR 418, Appendix A were established using the best available science at that time. The standards were developed by USEPA and incorporated into 06-096 CMR 418 and adopted by the Board on November 2, 1998. Further, the screening standards for at least five sewage sludge metals in 06-096 CMR 419, Table 419.3 were established from the potential health risk to a two-year-old child from ingesting sludge on a daily basis. This risk pathway clearly represents a residential, and not an agricultural, situation;

small children would commonly be exposed to soil contaminants at their residence, and would generally not be likely to ingest soil on an agricultural field. Given that sludge utilization is an agricultural practice, similar to ash-spreading, it is therefore appropriate to use a residential ingestion standard, where no other reference screening standard is available.

The Board finds that in the absence of a risk-based Mn standard in 06-096 CMR 419, Department staff correctly applied the standard in 06-096 CMR 418, Appendix A in order to protect human health and the environment.

C. Years Required to Approach Soil Screening Levels:

(1) The appellant contends that modeling of likely application rates indicates that the average site could be used for decades without soil concentrations reaching soil screening levels, and that decades of repeated applications are precluded by the pH of ash amended soil.

(2) The Board finds that 06-096 CMR 419(7)(A)(4)(b) requires that calculations be performed in accordance with those in 06-096 CMR 419, Appendix A(2)(C). The Board also finds that calculations performed in accordance with 06-096 CMR 419, Appendix A(2)(C) indicate the useful life of a site may be significantly reduced in consideration of background soil concentrations of Mn.

The Board finds that the modeling performed by the appellant to illustrate the estimation of site life and soil loading calculations for Mn is not appropriate relative to the requirements of 06-096 CMR 419.

D. Background Soil Data:

(1) The appellant asserts that the elevated soil levels of Mn that the Department describes in its findings (Finding 6(A) of Department Order #S-021177-SE-G-M) are suspect and the average soil analysis of Maine soils are less than half the screening limit. The appellant states that they re-sampled several of the farms initially sampled by LP Corp. and found no soils in excess of the (2,250 mg/kg) screening standard in 06-096 CMR 418, Appendix A for Mn.

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(2) The Board finds that the appellant provides no information as to why the results reported by LP Corp. are suspect. The Board further finds that the results provided by the appellant do, however, substantiate the Finding 6(A) that background concentrations of Mn in some regional soils are relatively high and variable. The Board finds that the appellant has provided no evidence to support the claim by the appellant that the analytical results used to support Finding 6(A) of Department Order #S-021177-SE-G-M are suspect.

E. Increased Cost to Ash Generators:

(1) The appellant contends that the cost to ash generators of this change in interpretation is substantial. The cost of total Mn analysis, using pricing from the University of Maine Soil Testing Service is $25.00 per sample, not including postage. The data shown in Table 1 (of its appeal) required 50 hours of staff time at a cost of approximately $3,750.00 or roughly $60.00 per sample for labor. The combined cost (analytical plus labor) is approximately $85.00 per sample. Based on an annual generation of 11,000 tons per year, an average application rate of three tons per acre and a maximum allowable acreage of eight acres per soil sample, Boralex Ashland will need approximately 458 samples in 2009 at a cost of $38,930 to conduct initial sampling on its sites.

(2) The Board finds that there is an increased cost for the additional soil sampling for Mn when required. However, because Special Condition #3 specifies a one-time sample per site and that many sites are used repeatedly for wood ash utilization, the cost is reasonable for the purpose of protecting human health and the environment. The Board further finds that Department Order #S-021177-SE-B-R already requires that soil at the appellant's ash utilization sites be analyzed for baseline soil fertility parameters to prevent over-application of nutrients. Therefore, cost could be defrayed by collecting any required background soil sample destined for Mn analysis at the same time. The Board also notes that obtaining data about background concentrations of Mn could be beneficial to the generator from a liability standpoint should the concentration of Mn in site soil be questioned by the landowner/operator, or others.

The Board finds that requiring the appellant to test site soil on a one-time basis to determine background levels of Mn for the purpose of protecting human health and the environment does not place an unreasonable financial burden on the appellant.

F. Consistency in Applying Requirements for Mn Analysis:

(1) The appellant argues that the Department's new interpretation of 06-096 CMR 419 has not been applied consistently, as would have been the case with a rule change. The appellant also states that over 12 ash generators are operating under agronomic utilization program licenses but only three generators (to Boralex's knowledge) are currently required to do soil testing for total Mn. The appellant further asserts that this creates increased costs for ash generators subject to these conditions putting them at a competitive disadvantage in the marketplace.

(2) The Department reports that at least ten wood ash generators have applied or have obtained approval for a revision to their wood ash utilization program license to address the matter of Mn. All other generators have been informed of the need to address the issue of Mn. Additionally, the Department has halted the review of three wood ash applications pending the outcome of this appeal. The Board finds that 06-096 CMR 419 and the requirement for ash generators to perform a one-time analysis of site soils for background levels of Mn have been applied consistently.

G. Impact on Ash Recycling Rates:

(1) The appellant states that if all ash generators are required to test site soils for background levels of Mn this could have the unintended consequence of making landfilling the ash a more viable alternative to agronomic utilization which would be in clear conflict with Maine's solid waste hierarchy.

(2) The Board finds that the worst likely outcome is that there may be a few sites that generators will opt not to use or not use repeatedly if it would cause the site soil to exceed the screening concentration in 06-096 CMR 418, Appendix A for Mn. For the most part, the

requirement for the one-time testing for Mn in utilization site soil will, first and foremost, err on the side of caution in protecting human health at or near utilization sites. Due to the current lack of sufficient data on soil Mn, the testing will help to provide much needed information that will help demonstrate how prevalent and at what concentrations Mn exists in soils in regions where wood ash is proposed for use. This information will be helpful in demonstrating to the Department what, if any, changes are necessary to 06-096 CMR 419 to address the matter of Mn in utilization site soils.

In the supporting documentation submitted to the Department relative to the appellant's renewal of its woodash utilization program license and approval for the transition of their program into the new requirements of 06-096 CMR 419 (Department Order #S-021177-SE-B-R), the appellant estimated the cost of operating its wood ash utilization program to be approximately $200,000 annually. Based on Boralex Ashland's an estimated annual generation rate of between 9,500 to 14,500 tons, the cost for land utilization would range from approximately $14.00 to $21.00 per ton annually. The Department estimates that the cost for disposal of the wood ash at a licensed solid waste (e.g., landfill) facility would cost approximately $54.00/ton.

The Board finds that it is unlikely that the performance of a one-time soil test at ash utilization sites will ultimately result in wood ash to being diverted to landfills.

3. ALL OTHER

All other Findings of Fact remain as set forth in Department Order #S-021177-SE-G-M.

BASED on the above Findings of Fact, the Board makes the following CONCLUSIONS:

1. The appellant has standing, is aggrieved and has made a timely appeal of the Department Order.

2. The appellant has submitted no new or additional information or arguments which would warrant vacating Special Conditions #3 and #4 of Department Order #S-021177-SE-G-M.

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BORALEX ASHLAND LP	15) APPEAL OF SOLID
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3. All other conclusions remain as set forth in Department Order #S-021177-SE-G-M.

THEREFORE, the Board DENIES the appeal by Boralex Ashland LP to vacate Special Conditions #3 and #4 and AFFIRMS Department Order #S-021177-SE-G-M.

DONE AND DATED AT AUGUSTA, MAINE, THIS 19th DAY OF NOVEMBER, 2009.

BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
Susan M. Lessard, Chair

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE APPEAL PROCEDURES.

Date of initial receipt of application: September 9, 2006
Date of application acceptance: October 2, 2006
Date filed with Board of Environmental Protection: June 29, 2009
Date of initial receipt of appeal: July 29, 2009
Date of appeal with Board of Environmental Protection: November 19, 2009

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