

IN THE MATTER OF:

TOWN OF HARTLAND)	
HARTLAND WWTF)	ADMINISTRATIVE CONSENT
PROTECTION AND IMPROVEMENT)	AGREEMENT
OF WATERS)	(38 M.R.S.A. § 347-A)
2010-004-W)	

This Agreement by and among the Town of Hartland (“Hartland”), the Maine Department of Environmental Protection (“Department”), and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department’s *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. Hartland owns and operates a wastewater treatment facility located at 162 Pittsfield Avenue. On November 7, 2002, the Department renewed Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0101443/Waste Discharge License #W000678-5M-G-M to Hartland for the monthly average discharge of 1.5 million gallons per day (MGD) of secondary treated sanitary and tannery process wastewaters to the west branch of the Sebasticook River, Class C. On December 6, 2007, the Department renewed MEPDES permit #ME0101443/Maine Discharge License #W000678-5M-H-R.
2. The wastewater treatment facility consists mainly of two primary clarifiers, two secondary clarifiers, two aeration ponds and a chlorination/dechlorination chamber. For an unknown number of years, Hartland has operated only one half of the facility (one primary clarifier, one secondary clarifier, one aeration pond and the chlorination/dechlorination chamber) and has allowed the other half of the facility to fall into disrepair so that it is no longer functional. This has effectively decreased the wastewater treatment capacity by half and has eliminated any back-up to the treatment facility as it is presently operated to allow for repair and maintenance.
3. The violations herein occurred at Hartland’s wastewater treatment facility during the period January 1, 2005 through November 30, 2010.
4. The Department has regulatory authority over the activities described hereinafter.
5. Standard Condition C.3(d) of WDL #W000678-5M-G-M stated, “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.” During an inspection on May 4, 2005, Hartland was found to be using a 5-Day BOD Test procedure not approved under 40 CFR part 136 because it was not using seed controls as required.

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6. Pursuant to the Department’s rules for *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519(7)(A)(1), Hartland was required to conduct mercury monitoring by testing no less than four tests per year. Hartland conducted only two mercury tests in 2005.

7. Special Condition A.1 of WDL #W000678-5M-G-M required that Total Residual Chlorine (TRC) be monitored twice daily but that the frequency of testing could be reduced to once daily on weekends and holidays. Hartland failed to conduct the second TRC monitoring on 22 days during the period January 1, 2005-December 5, 2007 that were neither weekends nor holidays. The specific days were noted on Hartland’s monthly 49 forms which are used to track daily compliance activities.

8. Special Condition A.1 of WDL #W000678-5M-G-M limited the monthly average concentration of total suspended solids (TSS) in the effluent to 103 mg/l. In February 2007, Hartland’s monthly average TSS discharge was 104 mg/l.

9. Standard Condition B.1(b) of WDL #W000678-5M-G-M stated, “The permittee shall at all times maintain in good working order and operate at maximum efficiency all wastewater collection, treatment and/or control facilities.” Standard Condition D.1(f)(i) stated in part, “The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours...(and in writing)...within 5 days of the time the permittee becomes aware of the circumstances.” During the period January 27-February 1, 2007, Hartland was unable to pump polymer to the primary clarifier “for several days”. Hartland failed to maintain the facility in good working order and operate it at maximum efficiency. Hartland also failed to timely report this noncompliance until a letter dated March 5, 2007.

10. Special Condition A.1 of WDL #W000678-5M-H-R limits the discharge of total chromium. The limits for chromium and violations of the chromium limits are as follows:

Date	Monthly Avg. Mass	Daily Max. Mass	Monthly Avg. Conc.	Daily Max. Conc.
	4.0 lb/day	34.0 lb/day	0.48 mg/l	3.4 mg/l
Feb 2008			0.93 mg/l*	
Nov 2008			0.55 mg/l	
Dec 2008			0.80 mg/l	
Jan 2009	7.7 lb/day		2.9 mg/l	3.8 mg/l
Feb 2009			0.94 mg/l	
April 2009	5.5 lb/day			

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June 2009			0.50 mg/l	
Jan 2010			0.62 mg/l	
Feb 2010			0.63 mg/l	

* As noted in paragraph 13 below, Hartland failed to conduct total chromium monitoring in January 2008. At the Department’s request, Hartland collected two total chromium samples in February 2008. However, it reported the result of the first February 2008 sample as a violation of 1.15 mg/l on the January discharge monitoring report. It reported the result of the second February 2008 sample as a violation of .72 mg/l on the February discharge monitoring report. The .93 mg/l noted here is an average of the two February 2008 total chromium sample results.

11. Special Condition A.1 of WDL #W000678-5M-H-R limits the discharge of aluminum to a monthly average mass of 15.1 lb/day and a monthly average concentration of 1.8 mg/l. In January 2009, Hartland discharged a monthly average aluminum concentration of 2.7 mg/l.
12. Special Condition A.1 of WDL #W000678-5M-H-R limits the discharge of BOD. The limits for BOD and violations of the BOD limit are as follows:

Date	Monthly Avg. Mass	Daily Max. Mass	Monthly Avg. Conc.	Daily Max. Conc
	660 lb/day	1,320 lb/day	66 mg/l	132 mg/l
April 2009		4,336 lb/day		371 mg/l

13. Special Condition A.1 of WDL #W000678-5M-H-R requires Hartland to monitor the effluent for total chromium once per month. In January 2008, Hartland failed to monitor for total chromium.
14. Special Condition I. of WDL #W000678-5M-H-R required Hartland to submit to the Department for review and approval, “...a (Toxicity Reduction Evaluation) TRE plan which outlines a strategy to identify the source(s) and action items to be implemented to mitigate or eliminate exceedences of ambient water quality criteria associated with 2,4,6-trichlorophenol and total zinc.” The plan was due within 45 days of the effective date of this license/permit, or by January 24, 2008. Hartland failed to meet the due date. A draft plan was received in the Department on February 19, 2008, 26 days late. After revisions, the final plan was submitted and was approved by the Department on March 27, 2008.
15. Special Condition A.1 of WDL #W000678-5M-H-R required that Hartland monitor the effluent for Total Residual Chlorine (TRC) twice/day when chlorine is used for effluent

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disinfection. Unlike the previous license, Hartland was required to monitor for TRC twice/day seven days/week with no allowance for weekends and holidays. In 2008, Hartland failed to conduct the second daily monitoring event on 60 days. In 2009, Hartland failed to conduct the second daily monitoring event on 61 days. The specific days were noted on Hartland’s monthly 49 forms which are used to track daily compliance activities. On April 16, 2010 the Department issued a modification to the waste discharge license reducing the required TRC monitoring frequency to once/day.

16. Special Condition N. of WDL #W000678-5M-G-M and W000678-5M-H-R regulates Hartland’s Industrial Pretreatment Program. During the period January 1, 2005 through March 31, 2010, Hartland violated its pretreatment requirements as follows:

a) Special condition N.1 requires that “(w)ithin 180 days of the effective date of this permit, (Hartland)...shall prepare and submit a written technical evaluation to the Department analyzing the need to revise local limits.” The due date of the evaluation was June 3, 2008. It was submitted to the Department on January 7, 2010, some 583 days after its due date.

b) Special Condition N.2(h) requires that “(w)ithin 180 days of the effective date of this permit, (Hartland)...must provide the Department in writing, proposed changes to...(their)...pretreatment program...(in) the following areas: (1) enforcement response plan; (2) revised sewer use ordinances; and, (3) slug control evaluations.” A slug discharge is any discharge of a non-routine, episodic nature including, but not limited to, an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the wastewater treatment facility’s regulations, local limits or permit conditions. The list of proposed changes was due on June 3, 2008. It was submitted to the Department on June 19, 2009, some 383 days after it was due and it did not adequately address the issue of slug control.

c) Special Condition N.1(a) states in part, “The permittee shall develop and enforce specific effluent limits (local limits) for Industrial User(s)...” Special Condition N.2(c) states in part, “(The permittee)...must...obtain appropriate remedies for noncompliance by an industrial user with any pretreatment standard and/or requirement.” Hartland violated Special Conditions N.1(a) and N.2(c) by failing to enforce specific effluent limits and by failing to obtain appropriate remedies for noncompliance for the following violations/noncompliance concerning its largest industrial user:

(1) Daily maximum chromium limit violations on 3/15/07, 4/11/07, 6/13/07, 2/19/08 and 3/13/08 and monthly average chromium limit

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violations in 3/07, 4/07, 5/07, 6/07, 7/07, 10/07, 12/07, 2/08, 3/08, and 10/09;

(2) February 2008-Low pH and failure to conduct required ammonia testing;

(3) March 2008-Failure to conduct required ammonia testing;

(4) July 2008-The SPCC plan was not certified, and there was no O&M manual;

(5) December 2008-Excessive flows 12/24, 12/25 and 12/26;

(6) February 2009-Low pH, the facility ran out of pretreatment chemicals;

(7) March 2009-Low pH;

(8) August 2009-Low pH; and,

(9) October 2009-Petroleum releases.

d) Special Condition N.2(b) states in part, “(The permittee)...must...issue or renew all necessary industrial user control mechanisms within 90 days of their expiration date....” The permit for the largest industrial user expired on November 4, 2008 and Hartland failed to renew it within 90 days. Hartland renewed the permit on April 20, 2010.

17. Special Condition K. of WDL #000678-5M-H-R requires that Hartland “...shall have a current written comprehensive Operation & Maintenance (O&M) Plan...(which)...shall provide a systematic approach by which the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control....” During inspections by Department staff on February 5, 2009 and July 22, 2009, respectively, it was discovered that Hartland was in violation of this license condition because it failed to adequately address pump station operation and process control in its O&M plan.
18. Standard Condition E.1 of WDL #000678-5M-H-R requires that, “(u)nless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities.” Hartland’s Pleasant Street (Annex) pump station has not had an alternate power supply for an unknown period of time, the lack of which has not been otherwise approved by the Department.
19. The actions described in paragraphs 5-18 of this Agreement are violations of the waste discharge licenses, 38 M.R.S.A. § 414(5), and the Department’s rules for *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519.
20. On January 28, 2010, the Department issued a Notice of Violation to Hartland for the activities described in Paragraphs 5–18 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). The parties agree that Hartland has been adequately noticed for all respective violations herein.

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21. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection (“Board”), which is part of the Department.
22. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
23. To resolve the violations referred to in Paragraphs 5–19 of this Agreement and to meet waste discharge license requirements, Hartland agrees to:
 - a. Pay to the *Treasurer, State of Maine* the amount of \$26,680 immediately upon signing this Agreement, all but \$1,141 of which is suspended based upon the Department's review of Hartland's finances and ability to pay the penalty;
 - b. Subject to the availability of funding and Department review, repair/replace the ventilation and air monitoring systems in the wastewater treatment system headworks facility as per the Wastewater Treatment Facility Evaluation completed by CES, Inc. dated June 30, 2010, and as required in Standard Condition B.1.(b) of the waste discharge license. Hartland will make a good faith effort to secure funding for this project by applying for financial assistance through the Maine Department of Economic and Community Development Community Development Block Grant Program, the United States Department of Agriculture Rural Development Loan/Grant Program, the Maine Department of Environmental Protection State Wastewater Grants Program and any other available funding programs, and if needed, by bringing to a town vote no later than December 31, 2011, a proposal for a user fee system for the wastewater treatment facility;
 - c. Beginning in 2011 and continuing until funding is available, send written reports to the Department on or before June 30 and December 31, stating Hartland's efforts to secure funding for the headworks facility ventilation and air monitoring systems; and,
 - d. Notify the Department when the repair/replacement of the headworks facility ventilation and air monitoring systems has been completed.
24. The Department and Office of the Attorney General grant a release of their causes of action against Hartland for the specific violations listed in Paragraphs 5-18 of this Agreement on the express condition that all actions listed in Paragraph 23 of this Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until all requirements of this Agreement are satisfied.

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- 25. Non-compliance with this Agreement voids the release set forth in Paragraph 24 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
- 26. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders. including but not limited to licensing requirements.
- 27. The provisions of this Agreement shall apply to, and be binding on, Hartland and its officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with the town who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of 7 pages:

TOWN OF HARTLAND

BY: _____ DATE: _____
TITLE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____ DATE: _____
SUSAN M. LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____ DATE: _____
JANET M. MCCLINTOCK, ASSISTANT ATTORNEY GENERAL