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STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION

JANET T. MILLS
GOVERNOR

Mark C. Draper, Chair

William F. Hinkel
Executive Analyst

Ruth Ann Burke
Board Clerk

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

October 1, 2020

A meeting of the Board of Environmental Protection was held on Thursday, October 1, 2020 by video-conference via Zoom. Board Chair Mark Draper called the meeting to order at 9:00 a.m. with the following individuals attending:

Board: Mark Draper, Mark Dubois, Robert Duchesne, James Parker, Steven Pelletier, and Robert Sanford. Susan Lessard was absent.

Staff: Ian Isler, Bureau of Remediation and Waste Management (BRWM)
Pamela Parker, Bureau of Water Quality
Mark Stebbins, Bureau of Land Resources
Dave Burns, Director, BRWM

Others: David Madore, Acting Deputy Commissioner
Scott Boak, Assistant Attorney General
Laura Jensen, Assistant Attorney General
William Hinkel, Board Executive Analyst
Cynthia Bertocci, former Executive Analyst
Ruth Ann Burke, BEP Clerk and Administrative Assistant

I. Departmental

- A. Commissioner's Comments:** Acting Deputy Commissioner David Madore reported the Ms. Loyzim is attending a meeting of the Climate Council this morning.
- B. Chair's Comments:** None
- C. Executive Analyst's Comments:** None.
- D. Board Calendar:** Ms. Bertocci commented that the Board will meet on October 15th. The agenda will include the Hartland Secure Sludge Landfill appeal that was tabled at the Board's August 20th meeting. She also noted that final comments on the staff recommendations on Nordic Aquafarms' applications (Site/NRPA and any supplemental comments on MEPDES/WDL) are due on Monday, October 5th. (Comments on the Air Emissions recommendation closed on August 17th.) Board meetings to review staff recommendations are tentatively scheduled for October 29th, November 5th and, if needed, November 12th.
- E. Departmental Orders / Applications Accepted for Processing:** No questions.

II. Regular Agenda Items (Note: All votes taken by roll call.)1. BEP Meeting Minutes. September 17, 2020

The Board voted (6-0-0-1) on a motion by Steven Pelletier, seconded by James Parker, to approve the minutes of September 17, 2020 as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D.

Board members Mark Draper, Mark Dubois, Robert Duchesne, James Parker, Steven Pelletier, and Robert Sanford voted to support the motion. Susan Lessard was absent.

2. Administrative Consent Agreement, ProShot Concrete, Inc (EIS# 2020-078-O)

Staff: Ian Isler, Bureau of Remediation and Waste Management

This consent agreement involves violations of the *Oil Discharge Prevention and Pollution Control Law*. ProShot was under contract to Maine DOT to rehabilitate a culvert at a construction site on Route 24 in Gardiner. Following report of a spill of hydraulic oil and subsequent investigation by DEP and MDOT, it was determined that up to 70 gallons of hydraulic oil had been discharged to soil and surface water from equipment at the site. The company did not comply with its Spill Prevention Control Plan and its contract with MDOT and failed to immediately notify DEP or initiate cleanup of the spill. The site was subsequently cleaned up by ProShot. The agreement requires that ProShot conduct employee safety training and pay a monetary penalty of \$7000.00

Following staff presentation and response to Board member questions, the Board voted (6-0-0-1) on a motion by James Parker, seconded by Steven Pelletier, to approve the Administrative Consent Agreement with ProShot Concrete as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D(6).

Board members Mark Draper, Mark Dubois, Robert Duchesne, James Parker, Steven Pelletier, and Robert Sanford voted to support the motion. Susan Lessard was absent.

3. Administrative Consent Agreement, Town of Brunswick Graham Road Landfill (EIS# 2017-144-W)

Staff: Pam Parker, Bureau of Water Quality

The agreement involves violations of the Pollution Control Laws and the terms of the facility's waste discharge license. Leachate from the landfill is treated in a series of lagoons and then combined with stormwater before being discharged to the Androscoggin River. Ms. Parker explained that in 2000 the U.S. EPA promulgated national effluent guidelines for the discharge of wastewater from non-hazardous landfills which are applicable to the Town's landfill. The facility is not able to comply with the new technology based national effluent guidelines for ammonia and cannot be modified to achieve compliance. The Town has researched alternative leachate treatment methods, but they have not proven feasible. In 2017 the Town entered into a Schedule of Compliance to close the landfill. The agreement resolves violations of the waste discharge license that occurred between May 31, 2011 and July 31, 2019. It includes a monetary penalty of \$17,000 with all but \$10,000 suspended.

The Town of Brunswick was represented by Attorney David Van Slyke who commented that the Town is on track to close the landfill on the schedule specified in the Schedule of Compliance. Ms. Parker and Assistant Attorney General Scott Boak responded to Board member questions regarding enforcement policies and the assessed penalty.

Following deliberations, the Board voted (6-0-0-1) on a motion by Robert Duchesne, seconded by Steven Pelletier, to approve the Administrative Consent Agreement with the Town of Brunswick as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D(6).

Board members Mark Draper, Mark Dubois, Robert Duchesne, James Parker, Steven Pelletier, and Robert Sanford voted to support the motion. Susan Lessard was absent.

4. Administrative Consent Agreement, David Jacobson, DDS, PLLC d/b/a Two Lights Dental LLC (EIS # 2020-014-L)

Staff: Mark Stebbins, Bureau of Land Resources

The consent agreement involves violations of the *Stormwater Management Law*. In December 2019, David Jacobson d/b/a Two Lights Dental LLC applied for a permit for a four-lot commercial subdivision in Cape Elizabeth. The applicant began work at the site without first obtaining a permit; work included clearing, stumping, grubbing, and basting. The applicant has since obtained a permit for the proposed development. The agreement requires a monetary penalty of \$2608.80. Dr. Jacobson was represented by Greg Shinburg who indicated acceptance of the terms of the agreement.

Following deliberations, the Board voted (6-0-0-1) on a motion by James Parker, seconded by Steven Pelletier, to approve the Administrative Consent Agreement with David Jacobson d/b/a Two Lights Dental, LLC as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D(6).

Board members Mark Draper, Mark Dubois, Robert Duchesne, James Parker, Steven Pelletier, and Robert Sanford voted to support the motion. Susan Lessard was absent.

5. Administrative Consent Agreement, Dirigo Center Developers, LLC (EIS# 2019-029-L)

Staff: Mark Stebbins, Bureau of Land Resources

The consent agreement involves violations of the *Site Location of Development Law* and the conditions of a permit. The Department issued a permit for the development of a 52.6 acre commercial and retail center in Westbrook. The developer subsequently proposed to substantially alter the plans for the South Campus from the approved mixed-use retail area to an outdoor music venue known as “Rock Row,” but began site work prior to issuance of a permit for the amended proposal. When staff inspected the site of the proposed project, the area had been graded and stormwater structures had already been installed. The Department was able to permit the development. The consent agreement includes a monetary penalty of \$10,931.00. Dirigo was represented by attorney James Katsiaticas who indicated his client’s acceptance of the terms of the agreement.

Following deliberations, the Board voted (6-0-0-1) on a motion by Robert Duchesne, seconded by Robert Sanford, to approve the Administrative Consent Agreement with Dirigo Center Developers, LLC as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D(6).

Board members Mark Draper, Mark Dubois, Robert Duchesne, James Parker, Steven Pelletier, and Robert Sanford voted to support the motion. Susan Lessard was absent.

(The meeting adjourned at approximately 9:45 a.m.)