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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 15, 2020

A meeting of the Board of Environmental Protection was held on Thursday, October 15, 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, and Robert Sanford. Susan Lessard, James Parker, and Steven Pelletier were absent.

Staff: Victoria Eleftheriou, Deputy Director, Bureau of Remediation and Waste Management (BRWM)
David Burns, Director, BRWM
Jeffrey Crawford, Director, Bureau of Air Quality
Erle Townsend, Environmental Specialist IV, Office of the Commissioner

Others: Melanie Loyzim, Acting Commissioner
Katherine Tierney, Assistant Attorney General
William Hinkel, Board Executive Analyst
Cynthia Bertocci, former Executive Analyst
Ruth Ann Burke, BEP Clerk and Administrative Assistant

I. Departmental**A. Acting Commissioner's Comments:** None**B. Chair's Comments:** None**C. Executive Analyst's Comments:** Mr. Hinkel commented that there are a number appeals pending before the Board, and that his primary focus is on the appeals of the Central Maine Power New England Clean Energy Connect (NECEC) decision, and the appeal by Black Bear Hydro of the Department's denial of water quality certification for the Ellsworth Hydro Project. He also noted that he is beginning work on the Board's report to the Legislature which is due on January 15, 2021.**D. Board Calendar:** Ms. Bertocci commented that Board review of staff recommendations on Nordic Aquafarms proposed project are tentatively scheduled for October 29th, November 5th and, if needed, November 12th. Board members should continue to reserve these dates.**E. Departmental Orders / Applications Accepted for Processing:** No questions.**II. Regular Agenda Items (Note: All votes taken by roll call.)**1. BEP Meeting Minutes. October 1, 2020

The Board voted (4-0-0-3) on a motion by Robert Duchesne, seconded by Mark Dubois, to approve the minutes of October 1, 2020 as presented.

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

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

2. Hartland Secure Sludge Landfill / Appeals of License #S-003463-WD-N-R by Hartland Environmental Advisory Team (HEAT), Roderick and Judy Pease, Rick Sanborn, and Linwood Violette.

Staff: Victoria Eleftheriou, Deputy Director, BRWM

This matter was tabled at the August 20, 2020 meeting to allow for drafting of two additional conditions and associated findings.

The Board voted (4-0-0-3) on a motion by Robert Duchesne, seconded by Mark Dubois, to take the matter off the table.

The vote was taken pursuant to 38 M.R.S. § 341-D(4).

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

At its August 20th meeting, the Board tabled its consideration of the appeal to allow for drafting of two additional conditions to the staff recommendation, one to provide notice of applications to all persons living within 1000 feet of the facility, the other to incorporate additional requirements for odor monitoring. Board members also requested clarification of the finding pertaining to hydrogen sulfide levels detected at the site relative to health-based standards. Following the meeting, a revised proposed Board order was provided to the applicant and the appellants for review and comment.

Ms. Eleftheriou reviewed the revisions to the initial draft order and responded to Board member questions. Attorney Andrew Hamilton commented on behalf of the Town of Hartland that the Town agreed to the proposed conditions. Ms. Rice-Cooper commented that the appellants were disappointed with the outcome of the appeal. The appellants requested that they have an opportunity to comment on the facility's Operations and Maintenance Manual (O&M) which will be revised to incorporate a quantitative odor measurement system. Staff responded that the revisions to the O&M Manual require a condition compliance application which is subject to public review and comment.

Following deliberations, the Board voted (4-0-0-3) on a motion by Mark Dubois, seconded by Robert Duchesne, to deny the appeals of Hartland Environmental Advisory Team, Judy and Roderick Pease, Rick Sanborn, and Linwood Violette, affirm the Commissioner's decision as modified with the addition of Conditions 9 and 10, and adopt the proposed order as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D(4) and §§ 1301-1319-Y, and Chapters 400, 401, and 405 of the State's *Solid Waste Management Rules*.

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

3. Chapter 100 Definitions Regulation / Post for Public Hearing

Staff: Jeffrey Crawford, Director, Bureau of Air Quality

Mr. Crawford explained that the Department is proposing to amend the definition of "Ozone Transport Region" (OTR) to exclude those parts of the

State to be removed from the OTR consistent with the State's Petition to U.S. EPA pursuant to Section 176A of the federal Clean Air Act.

Following staff presentation and response to Board member questions, the Board voted (4-0-0-3) on a motion by Robert Sanford, seconded by Robert Duchesne, to post the proposed amendment to Chapter 100 for a public hearing.

The vote was taken pursuant to 38 M.R.S. § 341-H and § 585-A.

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

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