

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR



MELANIE LOYZIM  
ACTING COMMISSIONER

IN THE MATTER OF:

**LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY** ) **AMENDED ADMINISTRATIVE**  
**AUBURN, ANDROSCOGGIN COUNTY, MAINE** ) **CONSENT AGREEMENT**  
**SOLID WASTE VIOLATIONS** ) **(38 M.R.S. § 347-A)**  
**EIS DOCKET: 2018-020-S** )

This Amended Administrative Consent Agreement (Amended Agreement), by and among the Lewiston-Auburn Water Pollution Control Authority ("LAWPCA"), the State of Maine, Department of Environmental Protection ("Department" or "DEP"), as approved by the Maine Board of Environmental Protection ("Board"), and the Office of the Attorney General ("OAG") is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S. §§ 347-A(1) and 341-D(6).

THE PARTIES AGREE AS FOLLOWS:

1. LAWPCA is a quasi-municipal corporation which is organized and exists under the laws of the State of Maine.
2. A deed recorded on June 4, 1992, in Book 2859, Pages 209-214, inclusive, of the Androscoggin County Registry of Deeds, describes a 116.2-acre property, within which is located "an approximately 10 (ten) acre property". The 10-acre property was granted by Roger G. Gauthier, Jr. to LAWPCA, immediately upon recording of the deed ("LAWPCA Property"). This property is located at 230 Penley Corner Road (City of Auburn Tax Map 137, Lot 032). The remaining land, approximately 106 acres, with an address of 276 Penley Corner Road (City of Auburn Tax Map 137, Lot 031), is described in the deed as a life-estate maintained by the Grantor (Roger G. Gauthier, Jr.) and by Virginia L. Beauchesne ("Gauthier/Beauchesne Property"). Possession of the Gauthier/Beauchesne Property will transfer to LAWPCA when both Roger G. Gauthier, Jr. and Virginia L. Beauchesne are no longer occupants, either through the death of both parties or if both parties abandon the property. At the time of this Agreement, Gauthier and Beauchesne remain in possession of the Gauthier/Beauchesne Property.
3. On June 24, 1992, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CC-A-N (re-coded as S-020780-CI-A-N), to construct and operate a sewage sludge compost facility ("compost facility") on the LAWPCA Property.

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

## IN THE MATTER OF:

<b>LEWISTON-AUBURN WATER POLLUTION</b>	)	<b>AMENDED ADMINISTRATIVE</b>
<b>CONTROL AUTHORITY</b>	)	<b>CONSENT AGREEMENT</b>
<b>AUBURN, ANDROSCOGGIN COUNTY, MAINE</b>	)	<b>(38 M.R.S. § 347-A)</b>
<b>SOLID WASTE VIOLATIONS</b>	)	
<b>EIS DOCKET: 2018-020-S</b>	)	

4. On February 5, 1993, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CC-B-M (re-coded as S-020780-CI-B-M), to: install a secondary liner beneath the compost facility odor-control biofilter; reduce the number of monitoring wells near the biofilter; and, construct an additional stormwater detention pond on-site.
5. On September 12, 2005, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CI-D-A, to construct a compost storage pad adjacent to the compost facility, and revise various license conditions.
6. On March 4, 2014, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CI-E-M, to allow the compost facility to accept sewage sludge generated by wastewater treatment facilities other than the LAWPCA wastewater treatment plant, while maintaining the overall volume of sludge received to 19,000 cubic yards per year.
7. On August 12, 2019, an Administrative Consent Agreement (“ACA”) was executed between LAWPCA, the Department and the OAG for violations of the Department’s Licensing Decision S-020780-CC-A-N (re-coded as S-020780-CI-A-N), Maine’s *General prohibition*, 38 M.R.S. § 1306(1), the Department’s *Solid Waste Management Rules: Composting Facilities*, 06-096 C.M.R. ch. 410, §§ 1 and 4, and the Department’s *Solid Waste Management Rules: Water Quality Monitoring, Leachate Monitoring, and Waste Characterization*, 06-096 C.M.R. ch. 405, § 2(D)(4). *See Appendix B of this Agreement.*
8. Paragraph 29 of the ACA includes corrective actions that LAWPCA agreed to complete to resolve the violations listed above and to receive a release from the Department and OAG relating to said violations. Among these corrective actions is paragraph 29(A), which states:
 

“To pay to the Lewiston-Auburn Watershed Protection Commission, immediately upon the signing of this Agreement, the amount of Thirty-Two Thousand Five Hundred dollars (\$32,500), for the purpose of funding the Nutrient Reduction Measures in Lake Auburn Watershed, Maine Supplemental Environmental Project (“SEP”) more fully described in Appendix A of this Agreement;”
9. Appendix A of the ACA provides that the Lake Auburn Watershed Protection Commission would be responsible for the completion of a project that would benefit the cities of Lewiston and Auburn of Androscoggin County by upgrading two catch basins in the Lake Auburn Watershed. These catch basins, in the area proximate to the Lake,

## IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	AMENDED ADMINISTRATIVE
CONTROL AUTHORITY	)	CONSENT AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S	)	

have been shown to release sediment and nutrients into the lake and the project's proposed benefits included reducing phosphorous, nitrogen and other contaminants from entering Lake Auburn through structural changes to the catch basins.

10. On July 21, 2020, the Department was informed by LAWPCA that the SEP described above was completed, however, of the estimated project cost of over \$50,000.00, the project only required \$12,329.07. Therefore, the Lake Auburn Watershed Protection Commission is in receipt of an additional \$20,170.93 that was not utilized as part of the SEP.

**AMENDED PROVISIONS**

11. LAWPCA, the Board, and the OAG agree that the remaining twenty thousand one hundred seventy dollars and ninety-three cents (\$20,170.93) paid by LAWPCA to the Lewiston Auburn Watershed Protection Commission may be utilized by the Lewiston Auburn Watershed Protection Commission for the completion of an additional SEP, more fully described in Appendix A of this Amended Agreement.
12. LAWPCA, the Board, and the OAG agree that all paragraphs and provisions of the August 12, 2019 ACA remain in effect and unaltered except for paragraph 29(A) and Appendix A of the ACA.
13. This Amended Agreement shall become effective only if it is approved by the Board and OAG.
14. Nothing in this Amended Agreement relieves LAWPCA from its obligation to achieve successful corrective action as defined in 06-096 C.M.R. 400, § 1(Rrr).
15. Actions taken pursuant to this Amended 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.
16. The provisions of this Amended Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Amended Agreement.

IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	AMENDED ADMINISTRATIVE
CONTROL AUTHORITY	)	CONSENT AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S	)	

IN WITNESS WHEREOF the parties hereto have executed this Amended Administrative Consent Agreement consisting of Four (4) pages plus Appendices:

LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY

BY: Mark A. Adams DATE: 9-21-2020  
MARK ADAMS, CHAIRMAN, BOARD OF DIRECTORS  
LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 MARK C. DRAPER, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 KATHERINE TIERNEY, ASSISTANT ATTORNEY GENERAL

## Appendix A

### Supplemental Environmental Project

**Pertaining to the Amended Administrative Consent Agreement EIS Docket 2018-020-S**

#### **Nutrient Reduction Measures in Lake Auburn Watershed II**

**Introduction:** Lake Auburn is the primary drinking water source for the Cities of Lewiston and Auburn, Maine. In recent years the lake has experienced algal blooms that have impacted the aesthetic characteristics of the water supplied to the Twin Cities. In addition, the nutrients causing the algal blooms have the potential to increase costs and the amount of chlorine required to adequately disinfect the raw water. The project described below is Supplemental Environmental Project (SEP) intended to be funded, in part, from a penalty paid to resolve issues addressed in an Administrative Consent Agreement (ACA) and an Amended Administrative Consent Agreement (AACA) between the Maine Department of Environmental Protection, the Maine Office of the Attorney General (AG), and the Lewiston-Auburn Water Pollution Control Authority (LAWPCA) (DEP EIS Docket 2018-020-S). This project is designed to reduce phosphorus, nitrogen, sediment and other potential contaminant inputs into Lake Auburn as identified by the Lewiston-Auburn Watershed Protection Commission (LAWPC), an entity separate and independent from LAWPCA. This project will have direct benefit to public health in Androscoggin County and general environmental benefit from reduced discharge of deleterious materials into the Auburn Lake ecosystem.

**Project Categories:** This project is best categorized as a Pollution Reduction Project although it contains elements that may fit the Pollution Prevention and Public Health categories as well. It is expected that upon completion the mass of nutrients and sediment entering Lake Auburn will be significantly reduced.

**Certification:** LAWPCA and the LAWPC certify that this project was not previously planned or approved for expenditure in any existing budget. The project will not be designed, constructed, implemented, or managed in any way by LAWPCA. This project is not the result of substantive planning that occurred prior to the enforcement action of which this SEP is proposed.

#### **Project Details:**

- **Project Name: Nutrient Reduction Measures in the Lake Auburn Watershed II**
- **Project Director:** Erica Kidd, Watershed Manager Auburn Water District/Lewiston Water Division. P.O. Box 414 Auburn, ME 04212. Office phone: (207)-333-6665 ex 1. Cell phone: (207)-423-2738. Facsimile phone number (207)-784-6460.
- LAWPC is governed by a nine-member Board of Directors representing the Cities of Auburn and Lewiston and the towns which make up the Lake Auburn Watershed. Employees of the Auburn Sewerage District and the Lewiston Public Works Department of Water and Sewer provide services as needed for the LAWPC and work for the LAWPC

is included in their job descriptions. The current chair of the Commission is John Bonneau. He may be reached at [JVbonneau@gmail.com](mailto:JVbonneau@gmail.com) or (207)-553-4755.

- **Geographic Area to Benefit from the Project:** This project will benefit the cities of Auburn and Lewiston, Androscoggin County, the Lake Auburn Watershed and potentially the Androscoggin River (which is the water body receiving the outflow of Lake Auburn).
- **Enforcement Action:** This project is associated with the enforcement action against the LAWPCA and specifically its compost facility located on Penley Corner Road in Auburn, Androscoggin County. The enforcement action primarily relates to nitrate contamination of the site groundwater from the biofilter used to treat odorous air from the composting operations, and un-licensed alterations to the biofilter. Compost facility operations are currently suspended.
- **Type of project:** The primary project category is Pollution Reduction as described above.
- **Project Description:** The project involves upgrading three (3) catch basins in the Lake Auburn Watershed. The catch basins in the area proximate to the Lake have been shown to release sediment and nutrients into the Lake that can be better controlled with structural changes to the basins that will permit more thorough containment and cleanout of these materials. The project will reduce the phosphorus, nitrogen and other contaminants entering Lake Auburn, the drinking water supply for Lewiston and Auburn, from stormwater runoff. These nutrients support algal blooms that have been experienced in recent years. This project is critical to maintaining good water quality in the Lake and public drinking water supply.
- **Total Project Budget:** It is expected that the cost for design, construction and associated expenses of the project will be more than \$23,000. LAWPCA is required to expend \$20,170.93, thus, only a portion of the SEP project will be funded by LAWPCA as part of the AACA.
- **Project Schedule:** It is expected that design of the project elements will be completed by early fall 2020. Construction is expected to be completed by November 2020. However, if there are project delays, work will be completed in spring 2021.
- **Expected Project Benefits:** The environmental benefits are expected to be most evident in Lake Auburn itself, although benefits will likely extend to the Androscoggin River and potentially to Casco Bay, the water body into which the overflow from Lake Auburn ultimately ends up. The benefits from the project are expected to be demonstrated in reduced algal bloom in Lake Auburn, and more specifically quantified through water quality sampling of First Brook and the outlets of the improved catch basins.
- **Reporting:** The LAWPC will be the overseeing entity with responsibility for administrative aspects of the project and will work with the Auburn Water District and the Lewiston Public Works Division of Water and Sewer to provide design, permitting, construction administration and associated engineering work. Within five (5) days of project commencement, LAWPC will report, to the Department, the date that the project commenced. Monthly reports will be submitted to the Department (via email), describing

project status and expenditures. A final report will be submitted to the Department, in writing, within thirty (30) days of project completion. The final report shall include a description of the completed project, and documentation necessary for the Department to determine that funds from the AACA were expended on the project.

- **Remaining Funds:** Within 30 days of the completion of this project, any and all remaining, not expended, funds provided as part of this enforcement action shall be paid by the LAWPC to the *Treasurer, State of Maine*, to be entered into the General Fund.

**Certification:**

*Lewiston-Auburn Water Pollution Control Authority certifies that this proposed SEP project is not result of substantive planning that occurred prior to this enforcement action.*

*Lewiston-Auburn Water Pollution Control Authority*

BY: Mark A. Adams DATE: September 15-2020  
 MARK ADAMS, CHAIRMAN, BOARD OF DIRECTORS  
 LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY

**Recipient Acknowledgment:**

*For and in consideration of the payments described herein Lake Auburn Watershed Protection Commission agrees to perform, or be responsible for obtaining performance of, the services, study, or projects described in this document pursuant to the terms set forth herein.*

**Lake Auburn Watershed Protection Commission**

JOSEPH GRUBE BY: Joseph Grube DATE: 9-14-2020  
 JOHN BONNEAU, CHAIRMAN  
 LAKE AUBURN WATERSHED PROTECTION COMMISSION

**Appendix B**

**August 12, 2019, Administrative Consent Agreement executed between  
LAWPCA, the Department and the OAG (EIS Docket 2018-020-S)**



Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

COPY



JANET I MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



GERALD D REID  
COMMISSIONER

IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	ADMINISTRATIVE CONSENT
CONTROL AUTHORITY	)	AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S		

This Agreement, by and among the Lewiston-Auburn Water Pollution Control Authority ("LAWPCA"), 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. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. LAWPCA is a quasi-municipal corporation which is organized and exists under the laws of the State of Maine.
2. A deed recorded on June 4, 1992, in Book 2859, Pages 209-214, inclusive, of the Androscoggin County Registry of Deeds, describes a 116.2-acre property, within which is located "an approximately 10 (ten) acre property". The 10-acre property was granted by Roger G. Gauthier, Jr. to LAWPCA, immediately upon recording of the deed ("LAWPCA Property"). This property is located at 230 Penley Corner Road (City of Auburn Tax Map 137, Lot 032). The remaining land, approximately 106 acres, with an address of 276 Penley Corner Road (City of Auburn Tax Map 137, Lot 031), was also conveyed in fee to LAWPCA, but this 106 acres is described in the deed as a life-estate maintained by the Grantor (Roger G. Gauthier, Jr.) and by Virginia L. Beauchesne ("Gauthier/Beauchesne Property"). Possession of the Gauthier/Beauchesne Property will transfer to LAWPCA when both Roger G. Gauthier, Jr. and Virginia L. Beauchesne are no longer occupants, either through the death of both parties or if both parties abandon the property. At the time of this Agreement, Gauthier and Beauchesne remain in possession of the Gauthier/Beauchesne Property.
3. On June 24, 1992, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CC-A-N (re-coded as S-020780-CI-A-N), to construct and operate a sewage sludge compost facility ("compost facility") on the LAWPCA Property.
4. On February 5, 1993, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CC-B-M (re-coded as S-020780-CI-B-M), to: install a secondary liner beneath the compost facility odor-control biofilter; reduce the number of monitoring wells near the biofilter; and, construct an additional stormwater detention pond on-site.

Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

COPY

IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	ADMINISTRATIVE CONSENT
CONTROL AUTHORITY	)	AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S	)	

5. On September 12, 2005, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CI-D-A, to construct a compost storage pad adjacent to the compost facility, and revise various license conditions.
6. On March 4, 2014, the Department granted approval to LAWPCA, in Department Licensing Decision S-020780-CI-E-M, to allow the compost facility to accept sewage sludge generated by wastewater treatment facilities other than the LAWPCA wastewater treatment plant, while maintaining the overall volume of sludge received to 19,000 cubic yards per year.

**REGULATIONS**

7. Throughout the period addressed by this Agreement, LAWPCA was subject to:

- A. The terms of all the above-referenced licensing decisions.

**Standard Condition #1** of Department Licensing Decisions S-020780-CC-A-N and S-020780-CC-B-M (re-coded as S-020780-CJ-A-N and S-020780-CI-B-M) states that:

*"[t]his order is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents is subject to the review and approval of the Board or the Commissioner prior to implementation."*

**Standard Condition #1** of Department Licensing Decisions S-020780-CI-D-A and S-020780-CC-E-M states that:

*"[t]he granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the license. Any consequential variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation."*

- B. Maine's *General prohibition*, 38 M.R.S. § 1306(1). This section states that:

*"It is unlawful for any person to establish, construct, alter or operate any waste facility without a permit issued by the department."*

Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

COPY

IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	ADMINISTRATIVE CONSENT
CONTROL AUTHORITY	)	AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S	)	

C. Department *Solid Waste Management Rules: Composting Facilities*, 06-096 C.M.R. ch. 410, § 1 (last amended April 12, 2015, corrected May 26, 2015). This section requires that:

*"[a] solid waste composting facility license under the Maine Solid Waste Management Rules: General Provisions, 06-096 CMR ch. 400 and this Chapter is required to locate, establish, construct or operate any new composting facility or to alter an existing composting facility, unless that facility is exempt from licensing under these rules."*

D. Department *Solid Waste Management Rules: Composting Facilities*, 06-096 C.M.R. ch. 410, § 4. This section requires that:

*"[t]he composting facility must be operated and maintained in a manner that assures it will meet the approved design requirements; will not contaminate ground or surface water [...]"*

E. Department *Solid Waste Management Rules: Water Quality Monitoring, Leachate Monitoring, and Waste Characterization*, 06-096 C.M.R. ch. 405, § 2(C)(3)(e) (last revised April 12, 2015). This section requires that:

*"[a]s part of assessment monitoring, monitoring wells must be installed and sampled downgradient of (and in the same hydrogeologic unit as) the affected monitoring well(s) in sufficient numbers to identify the magnitude and extent of the plume [...]"*

F. Department *Solid Waste Management Rules: Water Quality Monitoring, Leachate Monitoring, and Waste Characterization*, 06-096 C.M.R. ch. 405, § 2(D)(4). This section requires that:

*"[t]he facility owner and/or operator shall initiate corrective action immediately upon the Department's approval of their corrective action plan and approval of the individual actions to be taken [...]"*

**HISTORY**

8. On March 9, 2004, the Department issued a Notice of Violation (NOV) to LAWPCA related to ongoing groundwater contamination at the compost facility – groundwater monitoring results showed nitrate concentrations of 14 to 90 milligrams per liter (mg/L) between 1998 and 2004; the Maximum Contaminant Level (MCL) and Maine’s Maximum Exposure Guideline (MEG) for nitrate in groundwater is 10 mg/L. Among other items, Corrective Action #4 of the 2004 NOV required that LAWPCA

## Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

COPY

IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	ADMINISTRATIVE CONSENT
CONTROL AUTHORITY	)	AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S	)	

submit a groundwater monitoring plan; in 2007 LAWPCA submitted the groundwater monitoring plan.

9. In 2007, LAWPCA implemented a Department-approved groundwater quality Assessment Monitoring Program (AMP). Groundwater samples collected from monitoring wells downgradient of the biofilter had nitrate concentrations as high as 1,230 mg/L. Well MW-704 had a nitrate concentration of 130 mg/L. Manganese, nitrite, ammonia, and sodium were also present above the MCL and/or MEG in one or more monitoring wells which demonstrated contamination from the compost facility.
10. In 2010, the Department approved LAWPCA's draft February 2010 Environmental Monitoring Plan (EMP), the March 2010 *Biofilter Investigation and Corrective Actions*; and, the *Biofilter Investigations Status and EMP Revision for the LAWPCA Compost Facility, Auburn, Maine* (March 2, 2010) by Sevee & Maher Engineers (SME).

CURRENT VIOLATIONS

11. In a letter dated December 21, 2015, the Department informed Mr. Clayton "Mac" Richardson, LAWPCA Superintendent, that: "...[t]he nitrate-nitrogen concentration in wells MW-701A, MW-702A, MW-704 and MW-705 has consistently exceeded Maine's Maximum Exposure Guideline (MEG), and shows no decreasing trend" and "[t]he relatively high concentrations of nitrate-nitrogen, ammonia-nitrogen and TKN in MW-701A and MW-702A indicate that leakage of the biofilter remains a significant ongoing contaminant source." LAWPCA made Department-approved biofilter system repairs in 2010. For two years following the repairs, a decrease in nitrate levels were observed near the biofilter, however they stabilized at levels above the MEG, then increased again after 2015 and remained above the MEG. During this period, nitrate concentrations in wells farther downgradient, either remained relatively unchanged or increased. In the letter, the Department provided notice that LAWPCA should begin developing an updated Corrective Action Plan (CAP) to be submitted to the Department for review and approval in time for implementation prior to the last scheduled 2016 sampling event.
12. On June 29, 2016, after reviewing the *LAWPCA Compost Facility Water Quality Report*, dated April 2016, the Department sent an email to Mr. Richardson stating that "[t]he basic summary is that Nitrate-N concentrations in MW-701A and MW-702A were significantly higher than in the past several years. Concentrations in MW-704 remain high, and have continually increased... [t]he Department believes, under existing operations, downgradient groundwater will remain contaminated, and that biofilter replacement will be one necessary corrective action."

## Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

COPY

## IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	ADMINISTRATIVE CONSENT
CONTROL AUTHORITY	)	AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S	)	

13. On August 31, 2016, Department staff met with LAWPCA staff to discuss the groundwater contamination issues. The Department agreed that LAWPCA should submit a revised CAP by November 14, 2016. A general plan was submitted by LAWPCA on November 10, 2016.
14. On December 22, 2016, the Department sent a letter to Mr. Richardson rejecting Part II of LAWPCA's November 10, 2016 plan, but agreeing with Part I (Odor Control state of the art evaluation) of the plan. The Department required that LAWPCA submit a plan to institute a replacement odor control system for the facility. Also, the Department letter stated that there are likely other sources of contamination on-site. Finally, the letter stated that LAWPCA must determine the extent of contamination caused by the compost facility, as required by the *Solid Waste Management Rules: Water Quality Monitoring, Leachate Monitoring, and Waste Characterization*, 06-096 C.M.R. ch. 405, § 2(C)(3)(e).
15. On February 9, 2017, LAWPCA staff met with Department staff to discuss LAWPCA's opposition to the Department's letter of December 22, 2016.
16. On March 3, 2017, the Department sent a letter to Mr. Richardson stating that, based on the February 9, 2017 meeting, LAWPCA indicated "it would be possible to isolate the three cells, one at a time, including the liner system, in order to conduct testing and repair of the liner." The Department letter further states that "the Department is willing to afford LAWPCA the time necessary to investigate the feasibility of repairing the liner system and to undertake appropriate repairs." The Department required that the plan, specific to liner leak detection and repair, be submitted by April 14, 2017, with implementation by June 1, 2017, and full leak repairs completed by August 31, 2017. The Department letter provided a biofilter decommissioning schedule if LAWPCA chose not to investigate liner leakage and repair any leaks.
17. On April 14, 2017, Mr. Richardson submitted an April 12, 2017 letter to the Department in which he states that LAWPCA will cover and discontinue two of the three biofilter cells, use only one cell for odor treatment, plug the leachate collection piping in the two closed cells, and install a pipe to pump out leachate from the remaining cell. The April 12 letter did not include a proposal to investigate liner leakage or liner repair. The April 12 letter indicated LAWPCA's readiness to start and complete the work by the June 1 and August 31, 2017, deadlines set forth in the Department's March 3, 2017, letter. However, the Department intended the June 1 and August 31, 2017 deadlines set forth in the Department's March 3, 2017 letter to be only for "liner leak detection and full repair", and not any other alteration to the LAWPCA compost facility. LAWPCA and its consultants opined that the liner was not the likely source of leaks as the leak detection system has experienced very low flows. In the opinion of LAWPCA's consultants and liner installers, there is no

## Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

**COPY**

**IN THE MATTER OF:**

<b>LEWISTON-AUBURN WATER POLLUTION</b>	)	<b>ADMINISTRATIVE CONSENT</b>
<b>CONTROL AUTHORITY</b>	)	<b>AGREEMENT</b>
<b>AUBURN, ANDROSCOGGIN COUNTY, MAINE</b>	)	<b>(38 M.R.S. § 347-A)</b>
<b>SOLID WASTE VIOLATIONS</b>	)	
<b>EIS DOCKET: 2018-020-S</b>	)	

feasible means to investigate liner leakage other than removing all material in the biofilter or isolating one cell and containing all leachate in that single cell.

18. On June 12, 2017, the Department sent a letter to Mr. Richardson rejecting LAWPCA's April 12, 2017 plan. The Department letter included a timeline for implementing biofilter decommissioning and replacement. Additionally, the Department letter reiterates that LAWPCA has not yet complied with Department regulations in determining the "nature and extent of the contamination plume," and that there may be other sources of contamination on-site.
19. Mr. Richardson sent a letter to the Department, dated June 13, 2017, stating that LAWPCA's April 14, 2017 proposal, which had been denied by the Department, was being implemented.
20. On June 16, 2017, Department staff spoke with Mr. Richardson. Staff explained that Department regulations require that any alteration to the biofilter must first be approved by the Department. LAWPCA understood that its work had to begin by June 1, 2017. Although the Department's March 3, 2017 letter states the LAWPCA must "submit a complete investigation/repair plan [...] with sufficient detail for our project team to conduct a review", LAWPCA asserts that they did not understand that "review and approval" by the Department were required prior to the June 1 deadline for start of the work. At no time after the June 16, 2017 conversation, between Department staff and LAWPCA, did LAWPCA seek after-the-fact approval of the biofilter alterations begun on June 1, 2017.
21. On August 30, 2017, Mr. Richardson sent an email to Department staff confirming that LAWPCA had altered the biofilter.
22. In a letter dated September 18, 2017, from Mr. Richardson to Department staff, Mr. Richardson states that: "*...we have completed the modifications to the biofilter as outlined in my letter to you dated April 12, with the modification of our decision to remove the media from cells 2 and 3 rather than covering those cells.*"
23. On February 14, 2018, the Department received the LAWPCA 2017 Compost Facility Annual Report. The report indicates that the facility received and processed sewage sludge throughout 2017.

## Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

**COPY**

**IN THE MATTER OF:**

<b>LEWISTON-AUBURN WATER POLLUTION</b>	)	<b>ADMINISTRATIVE CONSENT</b>
<b>CONTROL AUTHORITY</b>	)	<b>AGREEMENT</b>
<b>AUBURN, ANDROSCOGGIN COUNTY, MAINE</b>	)	<b>(38 M.R.S. § 347-A)</b>
<b>SOLID WASTE VIOLATIONS</b>	)	
<b>EIS DOCKET: 2018-020-S</b>	)	

24. On July 10, 2018, the Department received the *April 2018 Water Quality Data Transmittal, LAWPCA Compost Facility, Auburn, Maine* (SME, June 13, 2018). The following table summarizes the exceedances of MCLs and/or MEGs:

Date	Well	Parameter	Concentration (mg/L)	MCL	ME G
4/18/18	MW-07-01-A	Nitrate	29	10	10
4/16/18	MW-07-02A	Nitrate	560	10	10
4/16/18	MW-07-04	Nitrate	190	10	10
4/16/18	MW-07-05	Nitrate	29	10	10
4/16/18	MW-07-02A	Ammonia	250	--	30
4/16/18	MW-07-02A	Nitrite	1.2	1	1
4/16/18	MW-07-02A	Arsenic	0.02	0.01	0.01
4/16/18	MW-07-01-A	Manganese	0.742	--	0.03
4/16/18	MW-07-02A	Manganese	29	--	0.03
4/16/18	MW-07-05	Sodium	24	--	20

25. By altering the compost facility and implementing corrective actions without Department approval, LAWPCA violated 38 M.R.S. § 1306, 06-096 C.M.R. ch. 410, § 1, Standard Condition 1 of Department Licensing Decision S-020780-CC-A-N (re-coded as S-020780-CI-A-N), and 06-096 C.M.R. ch. 405, § 2(D)(4). See ¶¶ 21-22. LAWPCA asserts that they did not understand that Department approval was required before beginning implementation of facility repairs on June 1, 2017.
26. By not determining the magnitude and extent of the groundwater contamination at the LAWPCA compost facility, LAWPCA violated 06-096 C.M.R. ch. 495, § 2(C)(3)(e). See ¶ 17-19.
27. On April 5, 2018, the Department issued an NOV to LAWPCA for the activities described in Paragraphs 11-12, 14, 17-22, and 24-26 of this Agreement, in accordance with 38 M.R.S. § 347-A(1)(B).

LAWPCA met with DEP staff on April 11, 2018 to explain more fully the repairs that were made to the biofilter system. On October 10, 2018, LAWPCA informed DEP that it had ceased acceptance of any sewage sludge at the compost facility, but was continuing its environmental monitoring of the facility.

28. This Agreement shall become effective only if it is approved by the Commissioner and the Office of the Attorney General.

Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

**COPY**

**IN THE MATTER OF:**

<b>LEWISTON-AUBURN WATER POLLUTION</b>	)	<b>ADMINISTRATIVE CONSENT</b>
<b>CONTROL AUTHORITY</b>	)	<b>AGREEMENT</b>
<b>AUBURN, ANDROSCOGGIN COUNTY, MAINE</b>	)	<b>(38 M.R.S. § 347-A)</b>
<b>SOLID WASTE VIOLATIONS</b>	)	
<b>EIS DOCKET: 2018-020-S</b>	)	

29. To resolve the violations referred to in Paragraphs 11-12, 14, 17-22, and 24-26 of this Agreement, LAWPCA agrees:
- A. To pay to the Lewiston-Auburn Watershed Protection Commission, immediately upon the signing of this Agreement, the amount of Thirty-Two Thousand Five Hundred dollars (\$32,500), for the purpose of funding the Nutrient Reduction Measures in Lake Auburn Watershed, Maine Supplemental Environmental Project ("SEP") more fully described in Appendix A of this Agreement;
  - B. Any payments made by LAWPCA pursuant to the SEP described above are not tax deductible and are ineligible for certification as tax exempt pollution control facilities pursuant to 36 M.R.S. §§ 655, 656 and 1760.
  - C. No later than forty-five (45) days after signing this Agreement, submit, to the Department, acceptable for Department review and approval a biofilter decommissioning and closure plan, and an updated CAP, pursuant to 06-096 C.M.R. ch. 405, § 2(D), that addresses groundwater and surface water monitoring. For the purposes of this Agreement, biofilter decommissioning and closure is considered a "corrective action" pursuant to 06-096 C.M.R. ch. 405, § 2(D). The biofilter decommissioning and closure plan and updated CAP shall be implemented upon written Department approval. Ongoing compost facility operations, including odor control and management, shall be addressed via licensing action by the Department
  - D. Submit, to the Department, a written evaluation report (ER) of corrective actions and monitoring results related to any Department-approved CAP prepared in response to Paragraph 29(C) of this Agreement, pursuant to 06-096 C.M.R. ch. 405, § 2(D). An ER must be submitted to the Department by December 31<sup>st</sup> of each year until the Department has determined that LAWPCA has achieved "successful corrective action" as defined by 06-096 C.M.R. ch. 400. The Department will notify LAWPCA, in writing, of its finding as to whether LAWPCA has achieved successful corrective action.
  - E. For any plan, report, document or any other submission from LAWPCA to the Department, as required under Paragraph 29(C - D) of this Agreement, that is returned by the Department as being unacceptable or denied, LAWPCA will revise and return said plan, report, document or submission within sixty (60) days of its return by the Department.



Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

COPY

IN THE MATTER OF:

LEWISTON-AUBURN WATER POLLUTION	)	ADMINISTRATIVE CONSENT
CONTROL AUTHORITY	)	AGREEMENT
AUBURN, ANDROSCOGGIN COUNTY, MAINE	)	(38 M.R.S. § 347-A)
SOLID WASTE VIOLATIONS	)	
EIS DOCKET: 2018-020-S	)	

- F. Pay to the *Treasurer, State of Maine*, upon demand by the Department, a civil monetary penalty in the amount of One Hundred Dollars (\$100.00) per day per violation of any of the terms of this Agreement.
- 30. Nothing in this Agreement relieves LAWPCA from its obligation to achieve successful corrective action as defined in 06-096 C.M.R. 400, § 1(Rrr).
- 31. The Department and Office of the Attorney General grant a release of their causes of action against LAWPCA for the specific violations listed in Paragraphs 11-12, 14, 17-22, and 24-26 of this Agreement on the express condition that all relevant actions listed in Paragraph 29 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.
- 32. Non-compliance with this Agreement voids the release set forth in Paragraph 31 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
- 33. 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.
- 34. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.
- 35. By signing and executing this agreement, LAWPCA knowingly, voluntarily, intentionally, permanently and irrevocably waive any and all defenses related to the enforcement of this agreement, and expressly agree that they will not assert:
  - A. Any claim or defense that LAWPCA's obligations under this consent agreement are illegal, invalid, or otherwise unenforceable;
  - B. Any claim or defense pertaining to any payment obligation, other than the defense of discharge by full performance, and the Department's enforcement and ability to enforce said payment obligations; and/or

Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

**COPY**

**IN THE MATTER OF:**

<b>LEWISTON-AUBURN WATER POLLUTION</b>	)	<b>ADMINISTRATIVE CONSENT</b>
<b>CONTROL AUTHORITY</b>	)	<b>AGREEMENT</b>
<b>AUBURN, ANDROSCOGGIN COUNTY, MAINE</b>	)	<b>(38 M.R.S. § 347-A)</b>
<b>SOLID WASTE VIOLATIONS</b>	)	
<b>EIS DOCKET: 2018-020-S</b>	)	

- C. Any claim or defense pertaining to the timing and efficacy of notice and/or process regarding this consent agreement and the Department's enforcement of the terms of said consent agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of Ten (10) pages, plus Appendix:

**LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY**

BY: *Mark Adams* DATE: 7-12-19  
 MARK ADAMS, CHAIRMAN, BOARD OF DIRECTORS  
 LEWISTON-AUBURN WATER POLLUTION CONTROL AUTHORITY

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

BY: *Gerald D. Reid* DATE: 7/30/19  
 GERALD D. REID, COMMISSIONER

**MAINE OFFICE OF THE ATTORNEY GENERAL**

BY: *Katherine Tierney* DATE: 8/12/19  
 KATHERINE TIERNEY, ASSISTANT ATTORNEY GENERAL

## Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

COPY

## Appendix A

## Supplemental Environmental Project

## Pertaining to the Administrative Consent Agreement EIS Docket 2018-020-S

## Nutrient Reduction Measures in Lake Auburn Watershed

**Introduction:** Lake Auburn is the primary drinking water source for the Cities of Lewiston and Auburn, Maine. In recent years the lake has experienced algal blooms that have impacted the aesthetic characteristics of the water supplied to the Twin Cities. In addition, the nutrients causing the algal blooms have the potential to increase costs and the amount of chlorine required to adequately disinfect the raw water. The project described below is intended to be funded, at least in part, from a Supplemental Environmental Project (SEP) that is a part of the Administrative Consent Agreement between the Maine Department of Environmental Protection and the Lewiston-Auburn Water Pollution Control Authority (LAWPCA). This project is designed to reduce phosphorus, nitrogen, sediment and other potential contaminant inputs into Lake Auburn as identified by the Lewiston-Auburn Watershed Protection Commission, an entity separate and independent from LAWPCA. This project will have direct benefit to public health in Androscoggin County and general environmental benefit from reduced discharge of deleterious materials into the Auburn Lake ecosystem.

**Project Categories:** This project is best categorized as a Pollution Reduction Project although it contains elements that may fit the Pollution Prevention and Public Health categories as well. It is expected that upon completion the mass of nutrients and sediment entering Lake Auburn will be significantly reduced.

**Certification:** LAWPCA and the Lewiston-Auburn Watershed Protection Commission certify that this project was not previously planned or approved for expenditure in any existing budget. The project will not be designed, constructed, implemented, or managed in any way by LAWPCA. This project is not the result of substantive planning that occurred prior to the enforcement action of which this SEP is proposed.

**Project Details:**

- **Project Name:** Nutrient Reduction Measures in the Lake Auburn Watershed
- **Project Director:** Erica Kidd, Watershed Manager Auburn Water District/Lewiston Water Division. P.O. Box 414 Auburn, ME 04212. Office phone: (207)333-6665 ex 1. Cell phone: (207) 423-2738. Facsimile phone number (207)784-6460.
- **The Lake Auburn Watershed Protection Commission (Commission)** is governed by a nine member Board of Directors representing the Cities of Auburn and Lewiston and the towns which make up the Lake Auburn Watershed. Employees of the Auburn Sewerage District and the Lewiston Public Works Department of Water and Sewer provide services as needed for the Commission and work for the Commission is included in their job

## Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

**COPY**

Appendix A - SEP Pertaining to the Administrative Consent Agreement EIS Docket 2018-020-S  
Nutrient Reduction Measures In Lake Auburn Watershed

descriptions. The current chair of the Commission is John Bonneau. He may be reached at [JV.Bonneau@gmail.com](mailto:JV.Bonneau@gmail.com) or (207)553-4755.

- **Geographic Area to Benefit from the Project:** This project will benefit the cities of Auburn and Lewiston, Androscoggin County, the Lake Auburn Watershed and potentially the Androscoggin River (which is the water body receiving the outflow of Lake Auburn).
- **Enforcement Action:** This project is associated with the enforcement action against the LAWPCA and specifically its compost facility located on Penley Corner Road in Auburn, Androscoggin County. The enforcement action primarily relates to nitrate contamination of the site groundwater from the biofilter used to treat odorous air from the composting operations, and un-licensed alterations to the biofilter. Compost facility operations are currently suspended, but may occur again after DEP licensing action.
- **Type of project:** The primary project category is Pollution Reduction as described above.
- **Project Description:** The project involves upgrading two catch basins in the Lake Auburn Watershed. The catch basins in the area proximate to the Lake have been shown to release sediment and nutrients into the Lake that can be better controlled with structural changes to the basins that will permit more thorough containment and cleanout of these materials. The project will reduce the phosphorus, nitrogen and other contaminants entering Lake Auburn, the drinking water supply for Lewiston and Auburn, from stormwater runoff. These nutrients support algal blooms that have been experienced in recent years. This project is critical to maintaining good water quality in the Lake and public drinking water supply.
- **Total Project Budget:** It is expected that the cost for design, construction and associated expenses of the project will be in excess of \$50,000. Thus, only a portion of the SEP project will be funded by LAWPCA as part of the Administrative Consent Agreement (ACA) with Department of Environmental Protection.
- **Project Schedule:** Although a final schedule has not yet been prepared, it is expected that design of the project elements will be completed during the summer 2019, and the work will be performed in the summer and be completed in autumn 2019.
- **Expected Project Benefits:** The environmental benefits are expected to be most evident in Lake Auburn itself, although benefits will likely extend to the Androscoggin River and potentially to Casco Bay, the water body into which the overflow from Lake Auburn ultimately ends up. The benefits from the project are expected to be demonstrated in reduced algal bloom in Lake Auburn beginning in the summer of 2020, and more specifically quantified through water quality sampling of First Brook and the outlets of the improved catch basins.
- **Reporting:** The Commission will be the overseeing entity with responsibility for administrative aspects of the project and will work with the Auburn Water District and

Appendix B

August 12, 2019, Administrative Consent Agreement executed between LAWPCA, the Department and the OAG  
(EIS Docket 2018-020-S)

**COPY**

**Appendix A - SEP Pertaining to the Administrative Consent Agreement EIS Docket 2018-020-S  
Nutrient Reduction Measures in Lake Auburn Watershed**

the Lewiston Public Works Division of Water and Sewer to provide design, permitting, construction administration and associated engineering work. Within five (5) days after project commencement, LAWPCA will report, to the Department, the date that the project commenced. Quarterly reports will be submitted by LAWPCA to the Department (via email), describing project status and expenditures. A final report will be submitted to the Department, in writing, within thirty (30) days after project completion. The final report shall include a description of the completed project, and documentation necessary for the Department to determine that funds from the ACA were expended on the project.

THIS PAGE INTENTIONALLY LEFT BLANK