Gerald D. Reid   Department of
Commissioner   Environmental Protection
                                                                            State of Maine

MEMORANDUM

TO: Mark C. Draper, Board Chair of the Board of Environmental Protection,

Scott Boak, Assistant Attorney General

FROM: Gerald D. Reid, Commissioner

Laura Crossley, Bureau of Water Quality

SUBJECT: Administrative Consent Agreement, Town of Bingham

DATE: May 14, 2020

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Statute and Rule Reference: 38 M.R.S. § 414(5) makes it unlawful to violate the terms or conditions of a license once issued by the Department of Environmental Protection and 40 C.F.R. Part 136 establish the Environmental Protection Agency guidelines for testing procedures under the Clean Water Act.

Location: Bingham Wastewater Treatment Facility, P.O. Box 652, Bingham, Maine

Violator: Town of Bingham (Town). Maine Waste Discharge License (WDL) #W001286-6B-E-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100056

Description: Since 2013, the Department has documented and informed the Town of multiple record violations. These included a failure to retain records and a failure to adhere to and document standard methods. Despite the Department's attempts to bring the Town into compliance over the past 8 years, the Town has continued to be in non-compliance with the terms of its license. Notably, due to a failure in record retention and use of standard methods, the past three years of data required by the Department has been invalidated.

Additionally, in the past three years, the Town has failed to fix necessary equipment for operations (including samplers), to provide a system of back-up power in case of a power outage and keep an Operations and Maintenance Manual as required by the Town's waste discharge license. This consent agreement addresses the record keeping violations occurring since September of 2013 as well as the operations non-compliance occurring since at least October of 2016.

The Department has attempted to correct non-compliance using technical assistance, Letters of Warning, and Notices of Violation which seems to have had little impact on compliance improvements. In fact, over the two to three years prior to involving enforcement, documented non-compliance related to lack of maintenance increased, rather than decreased.

Environmental Issues: The Town of Bingham is a small town (about 1,000 people) that discharges to a Class B waterbody, Jackson Brook, which discharges to the Kennebec River. The Department requires permittees to accurately report and maintain appropriate supporting documentation to verify compliance

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with the permit, which creates a picture of the environmental impact the permittee is having. Since there have been so many issues with recordkeeping, it is difficult to assess the impact the facility has had on the environment.

Since the onset of the compliance inspection on March 7, 2019 and subsequent enforcement meeting on May 16, 2018, the Town has fixed the effluent sampler and diffusers, replaced the micro-screen system with a grinder, found back-up power in case of a power failure, and replaced the influent sampler.

Staff Recommendation: The Department recommends acceptance of this Administrative Consent Agreement as proposed stipulating a monetary penalty of $39,256.00 with all but $15,000.00 suspended. The Town has agreed to partially fund a supplemental environmental project. Additionally, the Town has agreed to hire a consultant/trainer to complete:

    a. A comprehensive treatment plant evaluation;
    b. A laboratory evaluation;
    c. A report of deficiencies and room for improvement;
    d. Drafting a laboratory manual and treatment plant O&M plan;
    e. Laboratory training to staff and supervision of laboratory processes until staff are certified as competent by the consultant/trainer.

Is the agreement subject to 30-day public comment pursuant to 38 M.R.S. § 347-A(6)?

          Yes ☐   No ☒
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POSTED FOR 30-DAY PUBLIC COMMENT:

Enforcement Coordinator: _____   Posting Date: _____   Expires: _____

PROCEED WITH SIGNATURE:

Enforcement Coordinator: _____   Date: _____