



JANET T. MILLS
GOVERNOR



MELANIE LOYZIM
COMMISSIONER

MEMORANDUM

TO: Presiding Officer, Board of Environmental Protection
Scott Boak, Assistant Attorney General

FROM: Brian Kavanah, Director, Bureau of Water Quality
Pamela Parker, Division of Water Quality Management, CMRO

SUBJECT: ADMINISTRATIVE CONSENT AGREEMENT, SPRAGUE OPERATING
RESOURCES, LLC

DATE: December 2, 2021

Statute and Rule Reference: This consent agreement involves a violation of Maine's *Pollution Control* law, 38 M.R.S § 413(1).

License required. No person may directly or indirectly discharge or cause to be discharged any pollutant without first obtaining a license therefor from the department.

Location: Mack Point, Trundy Road, Searsport, Maine

Violator: Sprague Operating Resources LLC (Sprague)

Description: On December 2, 2020, Sprague personnel were operating the crane on the M/V Sider London to offload bales of solid recovered fuel (SRF) destined for incineration at the Penobscot Energy Recovery Company waste to energy plant. During transfer from the vessel to the pier, the lifting straps on two of the bales slipped, and the bales were dropped. One bale broke open after hitting the pier infrastructure, fell into the water, and sank immediately. The other bale fell directly into the water between the pier and the ship, remained intact, and slowly sank over the period of 5-10 minutes. During that time, the intact bale was carried by wind and current north around the bow of the ship and sank out of sight north and east of the ship. The bales of SRF measured approximately 42" x 42" x 72", weighed approximately 1,250 lbs each, and were comprised of approximately 80% shredded plastic, 11% paper, 8% fabric and 1% other non-putrescible materials. The bales were wrapped in a thin plastic film for transit. Sprague did not immediately attempt to recover the material due to poor weather and safety concerns.

On December 8, 2020, the Department received a complaint regarding garbage/plastic in the water and on the shore of the causeway leading to Sears Island and on the western shore of Sears Island itself. On December 9, 2020, Department response staff visited the site. Sprague reported the December 2, 2020 incident regarding the lost plastic bales. At that time, Sprague informed the Department that Sprague staff had begun inspecting beaches/shoreline and

collecting plastic waste. Sprague hired a contractor to conduct a more thorough inspection and clean up the shoreline and a diver to search for the second bale.

On December 21, 2020, Sprague located a target on the bottom of the harbor via side-scan sonar that warranted further investigation. On December 23, 2020, a dive team investigated the target, which was the second bale of material, secured and removed the bale intact.

The inspection and clean-up efforts continued through January 5, 2021. Plastic consistent with the SRF remained in the seaweed wrack line after the suspension of clean-up efforts.

In response to a Department issued Notice of Violation, Sprague revised portions of the Terminal Operation Manual, including specific risk assessment tools that include potential environmental impacts from cargo loss to provide a more thorough evaluation of environmental risks posed by a potential spill of material during terminal operations. The Department has reviewed those procedures and provided input to Sprague. Sprague has implemented those procedures.

Environmental Issues: A significant amount of shredded plastic was discharged to the environment and was not completely recovered as part of the clean-up efforts. The plastic left in the environment poses an ingestion hazard for sea life, will degrade over time into gradually smaller pieces of plastic (microplastics) that have been demonstrated to damage organs and leach chemicals into the marine organisms that happen to ingest them.

Public Comment: The Department received two responses during the public comment period, and those documents are included in the Board packet.

Regarding the comments received, the Department has concluded that pursuing enforcement here as a violation of 38 M.R.S. § 413(1), rather than treating the bales as oil pursuant to 38 M.R.S. § 562-A(15), is appropriate under the circumstances. The Department carefully applied its penalty policy and utilized the usual tools and methods to discern the monetary penalty in a manner that is consistent with other violations of 38 M.R.S. § 413(1) and Clean Water Act enforcement actions. The Department concluded that the proposed monetary penalty is appropriate given the following considerations: the clean-up of the spilled materials was incomplete and not immediate, the event was isolated and not readily foreseeable, and the loading and unloading of bulk cargo at the Sprague facility is not directly regulated by the Department.

Staff Recommendation: The Department recommends acceptance of this Administrative Consent Agreement as proposed stipulating a monetary penalty of seventeen thousand, eight hundred dollars (\$17,800.00).

Estimated Presentation Time: 20 minutes

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

Yes

No

POSTED FOR 30-DAY PUBLIC COMMENT:

Enforcement Coordinator: Ronald Mongeon Posting Date: 9/17/2021 Expired: 10/18/2021