

Report to the Joint Standing Committee on Environment and Natural Resources

Board of Environmental Protection Summary of Activities in Calendar Year 2021 and Recommendations for Committee Consideration

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I. INTRODUCTION

Maine law requires the Board of Environmental Protection (Board) to report to the joint standing committee having jurisdiction over natural resource matters by January 15 of the first regular session of each Legislature on the effectiveness of the environmental laws of the State and any recommendations for amending those laws or the laws governing the Board. 38 M.R.S. § 341-D(7). Although not required each year, the Board customarily reports on its activities annually to the Joint Standing Committee on Environment and Natural Resources (Committee). This report is submitted to the Second Regular Session of the 130th Maine State Legislature.

Section II of this report provides an overview of the Board’s membership, duties, and responsibilities. Section III summarizes matters before the Board in 2021, including the status of any matters pending before the Board at year end.

II. BOARD MEMBERSHIP, DUTIES, AND RESPONSIBILITIES

A. Membership. The Board is a seven-member citizen board whose members are appointed by the Governor and approved by the Legislature. 38 M.R.S. § 341-C. The purpose of the Board is to “provide informed, independent and timely decisions on the interpretation, administration and enforcement of the laws relating to environmental protection and to provide for credible, fair and responsible public participation in department decisions.” 38 M.R.S. § 341-B.

Board members are appointed for staggered four-year terms, and a member may not serve more than two consecutive four-year terms. The second consecutive term for Board member James Parker ended in June 2021. Since then, Mr. Parker has continued to serve the Board pursuant to 38 M.R.S. § 341-C, while a successor for this seat on the Board is nominated for confirmation. The first term for Board member Mark Dubois ended in December 2021. Mr. Dubois is not seeking reappointment for a second term. The first term for Board member Susan Lessard ends in January 2022, and Ms. Lessard is seeking reappointment for a second term. Board Chair Mark Draper’s second consecutive term expires on June 16, 2022. Board member biographies are provided as Attachment A to this report.

In previous reports submitted to the Committee, the Board noted that participation by some Board members in certain proceedings before the Board is limited by the federal recusal requirements under the Clean Water Act and the Clean Air Act. These federal standards regarding Board member participation are incorporated into Maine law at 38 M.R.S. § 341-C(8). It is noted that, because the State has been delegated authority to administer the Clean Water Act and Clean Air Act regulations in Maine, the Board has been advised that there is little or no discretion as to whether Maine must incorporate these federal standards into statute. These statutory limitations have proven challenging at times in terms of identifying potential new Board members, in assembling the necessary quorum to open a meeting and vote on matters (four members of the Board constitute a quorum), and by inadvertently foreclosing participation of certain Board members in matters in which he or she has subject matter expertise. Therefore, the Board respectfully requests that the Committee consider these statutory restrictions when considering new Board member nominations for confirmation so that the Board as a whole has a diverse and balanced composition.

- B. Responsibilities. The Board's responsibilities as set forth in 38 M.R.S. § 341-D and § 341-H are summarized below. Proceedings before the Board are governed by the Maine Administrative Procedure Act, the Board's statutes and procedural rules governing the various types of proceedings (e.g., rulemaking, appeal proceedings, adjudicatory hearings, etc.), and by program-specific statutes and rules governing matters, such as the control of air emissions, waste management, and land use. All meetings of the Board are noticed and open to the public. The Board maintains a webpage with member biographies, meeting materials, information on pending matters of broad public interest, and guidance to facilitate public participation in matters pending before the Board.
1. Rulemaking. The Board has authority to adopt, amend, or repeal reasonable rules and emergency rules necessary for the interpretation, implementation and enforcement of the laws administered by the Department. The Board also has authority to adopt, amend, and repeal rules as necessary for the conduct of the Department's business.
 2. Appeals of Commissioner Licensing and Enforcement Actions. An aggrieved person may appeal to the Board a final license or permit decision of the Commissioner. The Board also hears appeals of emergency orders and unilateral compliance and clean-up orders issued by the Commissioner pursuant to 38 M.R.S. § 347-A(3). In 2021, the Board adopted a new rule governing the proceedings in which hearings are held by the Board on appeals of certain emergency or unilateral administrative orders issued by the Commissioner. Additional discussion of the new Chapter 4 rule is provided below.

3. Decisions on Certain Permit Applications. The Board decides each application for approval of permits and licenses that in its judgment represents a project of statewide significance based on statutory criteria. 38 M.R.S. § 341-D(2). Additionally, the Department's statutes specify that certain applications, such as those pertaining to commercial hazardous waste facilities, must be reviewed and decided by the Board.
4. License Modification or Corrective Action. At the request of the Commissioner and after written notice and opportunity for hearing, the Board may modify, in whole or in part, any license, or issue an order prescribing necessary corrective action whenever the Board finds that any of the criteria at 38 M.R.S. § 342(11-B) are met.
5. Administrative Consent Agreements. The Board must approve, or may send back to the Department for further consideration, administrative consent agreements negotiated by the Commissioner pursuant to 38 M.R.S. § 347-A(1) to resolve violations of environmental laws or rules administered by the Department.
6. Recommendations to the Legislature. The Board is charged with making recommendations to the Legislature regarding the environmental laws of the State and any recommendations for amending those laws or the laws governing the Board.
7. Other Duties. The Board must carry out other duties as required by law. Other duties specified in statute include, among other things, holding hearings on and making recommendations to the classification of waters of the State it deems necessary to the Legislature.

III. SUMMARY OF MATTERS BEFORE THE BOARD IN 2021

A. Remote Participation in Board Meetings

In March 2020, Governor Mills proclaimed a state of emergency due to the imminent threat posed by Covid-19, issued Executive Order 14 FY 19/20, *An Order to Protect Public Health*, and signed into law Public Law 2019, Chapter 617, *An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency*. Emergency legislation followed, including new statutory subsection 1 M.R.S. § 403-A, Public proceedings through remote access during declaration of state of emergency due to COVID-19, which authorized the Board to conduct its public proceedings through telephonic, video, electronic or other similar means of remote participation.

Beginning in April 2020, the Board conducted its meetings entirely through remote means, first through telephonic conference then through video and audio webinars under the

authority of the emergency legislation (1 M.R.S. § 403-A). The newly enacted law contained a sunset provision whereby it would be repealed 30 days after the termination of the state of emergency. The last state of emergency proclaimed by Governor Mills expired on June 30, 2021. Consequently, the authority provided by 1 M.R.S. § 403-A for the Board to conduct remote meetings dissolved at the end of July 2021.

In June 2021, the Governor signed into law emergency legislation, *An Act Regarding Remote Participation in Public Proceedings*, P.L. 2021 ch. 290, which governs remote participation in public proceedings of certain public bodies after the termination of the state of emergency. (The chaptered law for this new authority is 1 M.R.S. § 403-B.) The new law authorizes certain public bodies, including the Board, to adopt a written policy to allow its members and the public to participate in a public proceeding using remote methods under certain conditions identified in the law.

In September 2021, the Board adopted a new policy, *Policy Regarding Remote Participation in Board Proceedings*. The Board's remote meeting policy governs the conditions upon which members of the Board and the public may participate in a public proceeding of the Board by remote methods, consistent with the new law. The new law and the Board's remote meeting policy from which it flows require that Board members are expected to be physically present for its public proceedings except when being physically present is not practicable. Circumstances in which physical presence for one or more Board members is not practicable are listed in statute and have been incorporated into the Board's policy.

The Board held 18 meetings in calendar year 2021. Between September and December of 2021, the Board conducted four meetings through a hybrid approach of in-person and remote means in accordance with the Board's policy. Numerous members of the public expressed support for expanding public participation through remote means. Although the current law requires as a default that the Board meet exclusively in-person, the Board notes that considerable effort was invested in developing and testing computer and internet technology so that, when necessary to do so, remote meetings held by the Board allow for and encourage public participation. As a result, the Board is prepared to react to possible statutory changes that may be made by the Legislature to broaden remote participation in public proceedings.

The Board continues to provide a live audio and video stream of all its meetings for members of the public who wish to observe the Board's proceedings.

B. Rulemaking

The Board acted on 20 rulemaking actions in calendar year 2021, which represents a marked increase over the six rulemaking actions taken by the Board in 2020. Of the 20 rulemaking actions initiated or completed in 2021, two proposed rules – Chapters 171 and 180 (see below) – are major substantive rules. A summary of calendar year 2021 rulemaking actions is provided below.

1. Chapter 4, *Rule Governing Hearings on Appeals of Certain Emergency or Administrative Commissioner Orders*. A new rule, Chapter 4 establishes procedural rules to govern proceedings in which hearings are held by the Board on appeals of certain emergency or unilateral administrative orders issued by the Commissioner. The new Chapter 4 rule establishes procedures similar in nature to those set forth in the existing Department rule Chapter 3, *Rules Governing the Conduct of Licensing Hearings*. Chapter 3 does not apply to emergency or unilateral administrative orders issued by the Commissioner. The Board adopted the new Chapter 4 rule on September 16, 2021.
2. Chapter 100, *Definitions Regulation*. Chapter 100 provides definitions for those terms used in the air pollution control regulations and emission standards. The Department proposed to amend the definition of “Ozone Transport Region” to exclude those parts of the State to be removed from the Ozone Transport Region consistent with the State’s petition to the U.S. Environmental Protection Agency (USEPA) pursuant to the federal Clean Air Act § 176A (a)(2). The Board adopted the amendments to Chapter 100 on January 7, 2021.
3. Chapter 128, *Advanced Clean Trucks Program*. A proposed new rule, Chapter 128, if adopted by the Board, would adopt California’s Advanced Clean Trucks regulation to encourage the sale of electric medium- and heavy-duty vehicles as part of a comprehensive strategy to implement recommendations from the “Maine Won’t Wait” Climate Action Plan. The Board held a hearing on the proposed rule on November 4, 2021, and a deliberative session on December 16, 2021. Additional public and stakeholder input on the proposed rule is anticipated before the Board considers adoption of a final rule in calendar year 2022.
4. Chapter 147, *Statewide Greenhouse Gas Emissions Regulation*. A new rule, Chapter 147 prohibits the use of hydrofluorocarbon chemicals with high global warming potentials in certain end uses, as required by Public Law 2021 Chapter 192 and in support of the greenhouse gas reduction goals established in 38 M.R.S. § 576-A. The Board adopted the new Chapter 147 rule on December 16, 2021.

5. Chapter 167, *Tracking and Reporting Gross and Net Annual Greenhouse Gas Emissions*. A new rule, Chapter 167 establishes methods for the calculation of annual greenhouse gas emissions as required by 38 M.R.S. § 576-A. These emissions estimates will be used to assess Maine’s progress toward meeting the gross greenhouse gas reductions set out in 38 M.R.S. § 576-A (1) and (3). The Department will use these methods to measure progress toward these reductions and toward the goals of the climate action plan described in 38 M.R.S. § 577. Additionally, the net emissions estimate will be used to gauge Maine’s progress toward the 2045 carbon neutrality goal. The Board adopted the new Chapter 167 rule on April 1, 2021.
6. Chapter 168, *Statewide Greenhouse Gas Emissions Regulation*. A new rule, Chapter 168 flows from the 2019 law “An Act to Establish the Maine Climate Change Council to Assist Maine to Mitigate, Prepare and Adapt to Climate Change,” P.L. 2019 ch. 476, and translates the statutory statewide greenhouse percentage reduction requirements into tonnage reductions based on million metric tons of carbon dioxide equivalents for gross emissions of greenhouse gases for each of the target years. The Board adopted the new Chapter 168 rule on October 21, 2021.
7. Chapter 169, *Stationary Generators*. A proposed new rule, Chapter 169 would establish standards for emissions and stack height for stationary electric generators to protect public health and maintain air quality. The purpose of the proposed rule is to ensure that the operation of new stationary generators does not negatively impact air quality or public health in the vicinity of a facility operating such a generator. The Board held a hearing on the proposed rule on September 16, 2021, and on December 16, 2021, approved the posting of a revised version of the proposed rule for further comment. Additional public input on the proposed rule is anticipated before the Board considers adoption of a final rule in calendar year 2022.
8. Chapter 170, *Degassing of Petroleum Storage Tanks, Marine Vessels, and Transport Vessels*. A proposed new rule, Chapter 170 would establish requirements to minimize emissions from the degassing of certain petroleum storage tanks, marine vessels, and transport vessels, and to ensure that these operations do not negatively impact air quality or public health. On December 16, 2021, the Board approved the posting of the proposed rule for a hearing to be held at a later date. The Board anticipates adoption of a final rule in calendar year 2022.
9. Chapter 171, *Control of Petroleum Storage Facilities*. A proposed new major substantive rule, Chapter 171 would establish new control, operating, inspection, testing, monitoring, recordkeeping, and reporting requirements for petroleum storage facilities throughout the State. On December 16, 2021, the Board approved the posting of the proposed rule for a hearing to be held at a later date. The Board anticipates to

provisionally adopt Chapter 171 in calendar year 2022. Final adoption of a proposed major substantive rule may occur only after legislative review, pursuant to the Maine Administrative Procedure Act, sub-chapter II.

10. Chapter 180, *Appliance Efficiency Standards*. On July 8, 2021, the Governor signed into law L.D. 940, *An Act To Establish Appliance Energy and Water Standards*. This legislation authorizes the Department to initiate rulemaking to restrict the sale of certain appliances and plumbing fixtures listed in Public Law 2021, Chapter 433. Federal and state standards and guidelines have long been in place for most of the appliances and fixtures addressed by this rule, however they have not been enforceable. By requiring new products to meet minimum efficiency standards, resource consumption will be reduced, and emissions of greenhouse gases and other pollutants will decline. A proposed new major substantive rule, Chapter 180 would allow for the sell-through of existing stocks of noncompliant products, and defers to any federal preemptions. On December 16, 2021, the Board approved the posting of the proposed rule for a hearing to be held at a later date. The Board anticipates to provisionally adopt Chapter 180 in calendar year 2022. Final adoption of a proposed major substantive rule may occur only after legislative review, pursuant to the Maine Administrative Procedure Act, sub-chapter II.

11. Chapter 400, *General Provision, of the Maine Solid Waste Management Rules*. Chapter 400 establishes the rules regarding administrative matters and general standards concerning solid waste facilities and solid waste handling. It describes which facilities and activities are subject to the Maine Solid Waste Management Rules and which are exempted. On January 13, 2020, the Department received a citizen petition to initiate rulemaking to amend Chapter 400 to clarify requirements for Public Benefit Determinations relating to approval of waste facilities, by ensuring that the definition of “waste that is generated within the State” accurately describes the sources of waste materials disposed in the State, and by requiring Public Benefit Determinations to include consideration of the impacts on health and welfare, environmental justice and equal protections for communities where waste facilities operate. The Board adopted the amendments to Chapter 400 on January 7, 2021.

12. Chapter 424, *Lead Management Regulation*. Modifications to Department rule Chapter 424 were proposed in response to changes made to the USEPA’s requirements for how lead hazards are cleared as part of USEPA’s efforts to reduce childhood lead exposure. The Board adopted the amendments to Chapter 424 on September 16, 2021.

13. Chapters 850 – 858, *Hazardous Waste Management Rules*. Modifications to eight Department rules – Chapters 850 through 858 – were proposed in order to make them consistent with federal regulations promulgated pursuant to the Resource Conservation

and Recovery Act. The following existing Department rules were amended accordingly: Ch. 850 *Identification of Hazardous Waste*; Ch. 851 *Standards for Generators of Hazardous Waste*; Ch. 852 *Land Disposal Restrictions*; Ch. 853 *Licensing of Transporters of Hazardous Waste*; Ch. 854 *Standards for Hazardous Waste Facilities*; Ch. 855 *Interim Licenses for Hazardous Waste Facilities*; Ch. 856 *Licensing of Hazardous Waste Facilities*; Ch. 857 *Hazardous Waste Manifest Requirements*; and Ch. 858 *Universal Waste Rules*. The Board adopted the amendments to Chapters 850 – 858 on September 16, 2021.

C. Appeals of Commissioner Licensing Decisions

If an applicant or other person is aggrieved by a licensing decision of the Commissioner, the Commissioner's decision may be appealed to the Board. Under provisions of 38 M.R.S. § 341-D(4), the Board may affirm the Commissioner's decision, amend the Commissioner's decision, reverse the Commissioner's decision, or remand the matter to the Commissioner for further proceedings. The Board may, at its discretion, also hold a hearing on an appeal. In an appeal proceeding, the Board is not bound by the Commissioner's findings of fact or conclusions of law. The Board's decision on appeal may be appealed to Superior Court (or the Law Court in the case of an expedited wind energy development). In addition to deciding appeals, the Board encourages parties to pursue various forms of alternative dispute resolution in an effort to reach a resolution that is satisfactory to all parties.

In calendar year 2021, the Board resolved seven appeals, received 12 new appeals, and ended the year with 15 appeals (five of which are related to the NECEC Project discussed in item number 3 below) pending. Appeals of Commissioner licensing decisions considered by the Board in 2021 are summarized below.

1. Apartments at Brunswick Landing, LLC. Joshua Katz filed with the Board an appeal of the July 22, 2020, Order of the Commissioner conditionally approving the applications of Apartments at Brunswick Landing, LLC for a Stormwater Management Law and Natural Resources Protection Act permit to construct a new apartment building complex within the former Brunswick Naval Air Station in Brunswick. The Board voted to deny the appeal and affirm the Department Order on June 17, 2021.
2. Black Bear Hydro Partners, LLC (Ellsworth Hydroelectric Project). Black Bear Hydro Partners, LLC filed with the Board an appeal of the March 19, 2020, Order of the Commissioner, which denied Black Bear Hydro Partners, LLC's application for water quality certification for the proposed Federal Energy Regulatory Commission relicensing and continued operation of the existing Ellsworth Hydroelectric Project located on the Union River in the towns of Ellsworth, Mariaville, Waltham, and

Fletchers Landing. Downeast Salmon Federation, the Passamaquoddy Tribe at Indian Point Reservation, Schoodic Riverkeepers, and Friends of Graham Lake commented on appeal. On June 3, 2021, the Board voted to deny the appeal and affirm the Department Order. Pursuant to the Maine Rules of Civil Procedure, Black Bear Hydro Partners, LLC filed a Rule 80C appeal of the Board Order with the Kennebec County Superior Court (Docket No. AP-21-26). That 80C appeal is pending as of the date of this report.

3. Central Maine Power Company and NECEC Transmission LLC. On May 11, 2020, the Commissioner issued an order conditionally approving the application of Central Maine Power Company (CMP) for a Site Location of Development and Natural Resources Protection Act permit to construct the New England Clean Energy Connect project (NECEC Order). On June 8, 2020, NextEra Energy Resources, LLC (NextEra) and, jointly, West Forks Group (appellants in the West Forks Group include: Kathy Barkley, Ed Buzzell, Carrie Carpenter, Town of Caratunk, Mandy Farrer, Noah Hale, Hawk's Nest Lodge, Kennebec River Anglers, Kim Lyman, Maine Guide Service, Mike Pilsbury, Eric Sherman, Matt Wagner, and West Forks Plantation) filed two separate petitions for judicial review of the NECEC Order pursuant to M.R. Civ. P. 80C with the Kennebec County and Somerset County Superior Courts, respectively. On June 10, 2020, the Natural Resources Council of Maine (NRCM) filed a timely appeal of the NECEC Order with the Board.

At the start of this appeal process, a delay resulted from the filings of the initial three appeals in three different venues. While NRCM filed its appeal of the NECEC Order with the Board, NextEra and West Forks Group filed judicial appeals in two separate courts. After court proceedings, the two judicial appeals were remanded by the Court to the Board months later, in August 2020, with a requirement to allow the appellants additional time to supplement their judicially filed appeals. Thus, it was not until October of 2020 – nearly five months following the licensing decision – that the Board had the ability to initially review all the appeal filings.

On January 4, 2021, the NRCM filed with the Board an appeal of the December 4, 2020, Order of the Commissioner approving the partial transfer of the NECEC Order (Transfer Order). The Transfer Order conditionally approved the application of CMP and NECEC Transmission LLC to partially transfer to NECEC Transmission LLC the underlying NECEC Order. For administrative economy and consistency, the Board will consolidate and process NRCM's appeal of the Transfer Order together with the three underlying appeals of the NECEC Order.

On June 7, 2021, the NRCM filed with the Board an appeal of the May 7, 2021, Order of the Commissioner conditionally approving a minor revision application of CMP and NECEC Transmission LLC (Minor Revision Order). The Minor Revision Order

approved specific revisions to the underlying NECEC Order. The NECEC Order and the Transfer Order, although discrete final agency actions, have intertwined issues and are based in substantial part on the same administrative record. For administrative economy and consistency, those appeals were consolidated. In its appeal of the Minor Revision Order, NRCM raises arguments not raised in the appeals of the underlying orders and will involve record evidence that is not part of the administrative record for the underlying appeals to be decided by the Board. NRCM's appeal of the Minor Revision Order will not be consolidated with the other pending appeals and instead will be processed separately, on its own procedural track.

The Board's rules set forth a clear and linear process from the time an appeal is filed to how the Board will ultimately decide an appeal; however, since the receipt of the appeals an inordinate number of filings and submissions by the parties has slowed the typical process described in Chapter 2. Examples of how filings in this particular appeal proceeding have lengthened the processing timeline include requests for reconsideration of prior rulings of the Board Chair on matters such as the filing of proposed supplemental evidence and the filing of additional information to supplement earlier submissions. In the interest of due process and general fairness, the Board provided the opportunity for all parties to comment on all of these types of filings, many of which strayed from the straightforward appeal process contemplated by Chapter 2. Finally, the appeals of decisions by the Commissioner on a Partial Transfer application (issued in December 2020, nearly 7 months following the NECEC Order), and a Minor Revision (issued in May 2021, nearly a year following the NECEC Order) with requests to consolidate the later appeals with the NECEC Order appeal, and requests (as recently as November 9, 2021) for a stay of the NECEC Order as well as all subsequent related Commissioner decisions transferring, amending and revising the NECEC Order have also been filed. Each of these matters required the time and attention of Department staff, Board staff, the Board Chair and counsel to the Board. This has resulted in a lengthier but arguably more thorough appeal process.

A Board decision on the appeals of the NECEC Order and Transfer Order is anticipated in early 2022. The Board will continue to process the appeal of the Minor Revision Order as expeditiously as possible following a decision on the appeals of the underlying order.

4. Dyer Long Pond Water Level Order. Richard Saltonstall, III filed with the Board an appeal of the March 13, 2020, Order of the Commissioner which established a water level regime and minimum flow requirements for Dyer Long Pond in Jefferson. On April 24, 2020, December 29, 2020, and August 11, 2021 in response to separate requests by the appellant and with the agreement of Dyer Long Pond Petitioners, the Board granted continuances of the appeal proceeding to allow for alternative dispute

resolution efforts pursuant to Department rule Chapter 2. If the alternative dispute resolution is unsuccessful in resolving the matter, the Board anticipates that it will resume processing of the appeal in early 2022.

5. Fallbrook Commons Development, LLC. Ian Houseal and Michael Denbow filed with the Board separate appeals of the June 4, 2020, Order of the Commissioner issued to Fallbrook Commons Development, LLC. The Department Order approved the application for a Natural Resources Protection Act permit to construct a 90-bed nursing care center in Portland. The Board voted to deny the appeal and affirm the Department Order on February 18, 2021.
6. Fallbrook Commons Development, LLC. Ian Houseal filed with the Board an appeal of the August 4, 2021, Condition Compliance Order of the Commissioner issued to Fallbrook Commons Development, LLC in which the Commissioner concluded that the licensee has complied with Conclusion 6 of the underlying June 4, 2020, Order (see item number 5 above). The Board anticipates resolution of this appeal in 2022.
7. General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4 Permit). Friends of Casco Bay filed with the Board an appeal of the MS4 Permit. The USEPA Region I, the Bangor Area Stormwater Group, the Interlocal Stormwater Working Group, the Southern Maine Stormwater Working Group, and Conservation Law Foundation submitted comments on the appeal. On February 18, 2021, the Board voted to remand the MS4 Permit to the Commissioner for further proceedings to modify Part IV.C.5.b and Part IV.E of the MS4 Permit. On November 23, 2021, following additional public comment, the Department issued a modification of the MS4 Permit.
8. Juniper Ridge Landfill (State of Maine). Edward S. Spencer filed with the Board an appeal of the November 29, 2021, Order of the Commissioner conditionally approving the application of the State of Maine, acting through the Bureau of General Services, for a minor revision to Department license #S-020700-WD-BI-N, issued on June 1, 2017. The minor revision application was filed for approval to establish a methodology and process for determining the annual Oversized Bulky Waste (OBW) limit at the State-owned Juniper Ridge Landfill in Old Town. A Board decision on the appeal is anticipated in 2022.
9. KEI (Maine) Power Management (III) LLC (Lower Barker Hydroelectric Project). KEI (Maine) Power Management (III) LLC (KEI) filed with the Board an appeal of the November 22, 2019, Order of the Commissioner approving a water quality certification issued to KEI for the Lower Barker Hydroelectric Project in Auburn. The Board has granted a total of six requests to stay its processing of KEI's appeal to enable a possible

resolution of the dispute pursuant to Department rule Chapter 2, § 24. If the alternative dispute resolution is unsuccessful in resolving the matter, the Board anticipates that it will resume processing of the appeal in 2022.

10. Kingfish Maine (Waste discharge license). Sierra Club Maine filed with the Board an appeal of the June 25, 2021, Order of the Commissioner conditionally approving the application of Kingfish Maine for a Maine Pollutant Discharge Elimination System permit to discharge of up to 28.7 million gallons per day of treated wastewater associated with a proposed land-based recirculating aquaculture system in Jonesport. On August 12, 2021, the Board dismissed Sierra Club Maine's appeal for lack of standing and failure to comply with the Board's requirements for the content of appeals.
11. Kingfish Maine (Site Law and NRPA permit). On December 13, 2021, Sierra Club Maine, Rocque Island Gardner Homestead Corporation, and Eastern Maine Conservation Initiative filed with the Board separate appeals of the November 12, 2021, Order of the Commissioner conditionally approving the applications of Kingfish Maine for a Site Location of Development and Natural Resources Protection Act permit to construct a land-based recirculating aquaculture facility in Jonesport. The appeals are pending with the Board for processing during calendar year 2022.
12. Marc de St. Maurice. West Bay Farm Trust and Nancy Crate filed with the Board separate appeals of the June 29, 2021, Order of the Commissioner conditionally approving the Natural Resources Protection Act permit application of Marc de St. Maurice to construct a pier system with a fixed pier and seasonal ramp and float in Islesboro. In consideration of the similarity of the arguments raised in the separate appeals, and in the interest of administrative economy and consistency, the Board will consolidate and process together the appeals of West Bay Farm Trust and Nancy Crate. The Board anticipates resolution of this appeal in 2022.
13. John Heist and Michael Neumann. Jay Horschak, Nancy Horschak, and Eric Horschak filed with the Board an appeal of the April 14, 2021, Order of the Commissioner conditionally approving the Natural Resources Protection Act application of John Heist and Michael Neumann to construct a residential pier in Gouldsboro. The Board voted to deny the appeal and affirm the Department Order on October 21, 2021.
14. John and Holly Richio. Charles Piper and Stephanie Ralph filed with the Board an appeal of the June 8, 2021, Order of the Commissioner conditionally approving the application of John and Holly Richio for a Permit-by-Rule to construct an access way to Sebago Lake in Standish. The Board anticipates resolution of this appeal in 2022.

15. Jeffry Spinney. Carol Ervin and Bailey Bolen, Allen J. Philbrick (Trustee of the James Erskine Philbrick Tree Farm Trust), and William A. Weary filed with the Board an appeal of the March 13, 2020, Order of the Commissioner conditionally approving the Natural Resources Protection Act permit application of Jeffry Spinney to construct a pier system and permanent boat ramp in Alna. The Board voted to deny the appeal and affirm the Department Order on February 18, 2021.
16. Waste Management Disposal Services of Maine, Inc. Conservation Law Foundation (CLF) filed with the Board an appeal of the May 11, 2021, Order of the Commissioner conditionally approving the application of Waste Management Disposal Services of Maine, Inc. to construct a 7.75-million cubic yard expansion at the site of the existing Waste Management Disposal Services of Maine, Inc. landfill in Norridgewock. A Board decision on the appeal is anticipated in 2022.

D. Appeals of Administrative Orders Issued by the Commissioner

A number of the Department's program-specific statutes provide for appeals to the Board of a Commissioner's administrative order, such as an order to remediate a site contaminated by oil or hazardous substances. These are unilateral orders through which the Commissioner seeks to correct serious environmental conditions. Due process is afforded through the right of appeal to the Board, and then Superior Court. The Board received no appeals of administrative orders in calendar year 2021.

E. Permit and License Applications

Maine law provides that the Board decide each application for approval of permits and licenses that in the Board's judgment represents a project of statewide significance. 38 M.R.S. § 341-D(2). The Department's rule Chapter 2 § 17 provides that any person may request that the Board assume original jurisdiction of an application by submitting the request to the Department in writing no later than 20 days after the application is accepted as complete for processing. When the Board assumes original jurisdiction of an application, that means that the Board decides the application in the first instance instead of the Commissioner. A project of statewide significance is defined as a project which meets at least three of the four following criteria:

- Will have an environmental or economic impact in more than one municipality, territory or county;
- Involves an activity not previously permitted or licensed in the State;
- Is likely to come under significant public scrutiny; and
- Is located in more than one municipality, territory or county.

Additionally, the Board shall decide all applications referred to it jointly by the Commissioner and the applicant. The Board may vote to assume jurisdiction of an application if it finds that at least 3 of the 4 criteria identified above have been met. An exception to this provision is that Board may not assume jurisdiction over an application for an expedited wind energy development as defined in Title 35-A, § 3451, sub-§ 4, for a certification pursuant to Title 35-A, § 3456 or for a general permit pursuant to Title 38 § 480-HH or § 636-A.

1. Nordic Aquafarms, Inc. In June of 2019, the Board voted to assume original jurisdiction of the separate applications of Nordic Aquafarms, Inc. for Site Location of Development and Natural Resources Protection Act (Land Bureau applications), Chapter 115 Minor Source Air Emissions (Air Bureau application), and Maine Pollutant Discharge Elimination System / Maine Waste Discharge License (Water Bureau application) for Nordic Aquafarms, Inc.'s proposed land-based Atlantic Salmon aquaculture facility in Belfast and Northport. On November 19, 2020, the Board conditionally approved the aforementioned applications.

In December of 2020, Jeffrey Mabee, Judith Grace, the Maine Lobstering Union, Wayne Canning, and David Black filed a Rule 80C appeal of the Board Orders in the Waldo County Superior Court (Docket No. AP-2020-05) and Upstream Watch filed a Rule 80C appeal of the Board Orders in the Kennebec County Superior Court (Docket No. AP-2020-49); these cases were later consolidated. Although the Board decided Nordic's permit applications in 2020, the filing of the two judicial appeals of the Board Orders required the use of considerable Board staff resources during calendar year 2021.

2. Requests for Board Jurisdiction. The Department received a total of eight requests for Board jurisdiction in calendar year 2021. In accordance with the procedure set forth in Chapter 2 § 17, the Board did not vote to assume original jurisdiction of any permit or license applications in 2021.
3. Additional Applications Subject to Board Approval. Maine law provides that the Board shall decide all applications for commercial hazardous waste facilities. 38 M.R.S. § 1319-R(3). The Board did not act on any such applications in 2021.

F. Administrative Consent Agreements

Administrative consent agreements are voluntary, and the terms and conditions of such agreements are the product of a negotiation process between the violator, the Department, and the Office of the Maine Attorney General. The Department calculates civil monetary penalties through the evaluation of the environmental aspects of a case (such as the

sensitivity of the environmental resource, size of the affected area, and potential effect to human health), the circumstances in which the violation occurred (such as the violator's knowledge of the laws, the cause of the violation, the violator's response and level of cooperation, and the compliance history of the violator), and whether civil monetary penalty is substantial enough to deter others from similar violations (taking into consideration factors such as whether the violator received a financial gain as a result of the violation, whether the violator has committed either the same or similar violations in past five years, and the violator's ability to pay the penalty). The unique circumstances surrounding the violation(s) results in the calculation of civil penalties that are site- and violator-specific. Maine law authorizes the Department to include supplemental environmental projects – an environmentally beneficial project primarily benefiting public health or the environment that a violator is not otherwise required or likely to perform – as part of an administrative consent agreement. 38 M.R.S. § 349(2-A). Whether or not a supplemental environmental project is included as a component of an administrative consent agreement, mitigation of environmental impacts created by the alleged violation(s) is typically completed during negotiation of the administrative consent agreement or may be established as a binding condition of the administrative consent agreement.

In 2019, the Legislature modified and expanded the Board's enforcement authority to include approval of administrative consent agreements negotiated by the Department to resolve violations of environmental laws administered by the Department. As a result of its new responsibilities pursuant to 38 M.R.S. § 341-D(6)(G), the Board has experienced a sharp increase in activity with respect to the review and approval of administrative consent agreements. The Board approved 18 administrative consent agreements in 2020 and 20 in 2021. A summary of each administrative consent agreement considered by the Board in calendar year 2021 is provided below. The Department prepares monthly enforcement reports to satisfy its statutory obligation under 38 M.R.S. § 349(7) that the Department inform the public of certain enforcement resolutions. See the Department's webpage at <https://www.maine.gov/dep/enforcement/mcar/index.html>.

1. ISF Trading Company, Portland. This administrative consent agreement involves violations of the State's waste discharge laws, 38 M.R.S. §§ 413(1) and 414(5), and ISF Trading Company's Maine Pollutant Discharge Elimination System permit. The administrative consent agreement stipulates a monetary penalty of \$88,012, with \$76,244 suspended contingent upon adherence to a schedule to terminate the wastewater discharges to the Fore River and connect and direct wastewater discharges to the Portland Water District's sanitary sewer system. The remaining penalty balance of \$11,768 will be paid to the Treasurer, State of Maine. The Board approved the administrative consent agreement on March 4, 2021.

2. Pleasant River Lumber Company, Dover-Foxcroft. This administrative consent agreement involves violations of the State’s waste discharge laws, 38 M.R.S. § 414(5), and Pleasant River Lumber Company’s Multi-Sector General Permit for Stormwater Associated with Industrial Activity permit. The administrative consent agreement stipulates a monetary penalty of \$88,684, with \$10,000 to be paid to the Treasurer, State of Maine; \$55,000 to be paid to the Piscataquis Soil and Water Conservation District as a Supplemental Environmental Project; and \$23,684 to be suspended contingent upon Pleasant River Lumber Company completing corrective actions detailed within the administrative consent agreement. The Board approved the administrative consent agreement on March 4, 2021.
3. Global Companies LLC. This administrative consent agreement involves violations of Global Companies LLC’s Air Emissions License. Global Companies LLC used non-compliant #6 fuel oil and submitted a late stack testing report both in violation of its Air Emissions License. The administrative consent agreement stipulates a monetary penalty of \$20,000. The Board approved the administrative consent agreement on March 18, 2021.
4. Mark and Kathleen Humphreys, St. Agatha. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Chapter 305 of the Department’s rules, *Permit by Rule Standards*. Mark and Kathleen Humphreys failed to follow all permit by rule standards and that portions of the project were completed after the permit by rule had expired. The administrative consent agreement stipulates a monetary penalty of \$2,082. The Board approved the administrative consent agreement on May 6, 2021.
5. David and Janice Lee, St. Agatha. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. David and Janice Lee caused approximately 250 square feet of fill to be placed in Long Lake to create an approximately 40-foot jetty into the lake and the removal of vegetation adjacent to and within the lake. The administrative consent agreement stipulates a monetary penalty of \$2,580. The Board approved the administrative consent agreement on May 6, 2021.
6. Kevin and Tammy Michaud, St. Agatha. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. David and Janice Lee caused approximately 7,000 square feet of fill to be placed in and adjacent to Long Lake and the removal of vegetation adjacent to and within the lake. The administrative consent agreement stipulates a monetary penalty of \$3,790. The Board approved the administrative consent agreement on May 6, 2021.

7. Pan Am Railways, Inc., Waterville. This administrative consent agreement involves violations of the Oil Discharge Prevention and Pollution Control laws, 38 M.R.S. § 543, 548, and 550; Protection and Improvement of Waters, 38 M.R.S. § 413(1), which prohibits any person from discharging pollutants without a license; 38 M.R.S. § 414(5), which prohibits that person from violating the terms and conditions of that license; 38 M.R.S. § 543, which prohibits the discharging of oil to a river; and Maine Environmental Protection Fund law, 38 M.R.S. §§ 353, 353-A, and 353-B(1), which requires that annual fees to be paid for licenses. The administrative consent agreement stipulates a monetary penalty of \$310,225 with all but \$200,000 suspended contingent upon the completion of all other corrective actions set forth within the agreement. The administrative consent agreement also stipulates payment of \$2,839 as reimbursement of the Department's expenses for investigation and oversight of response activities; \$1,932.76 for outstanding stormwater permit fees; and \$1,298.44 in outstanding air emissions license fees. The Board approved the administrative consent agreement on May 6, 2021.
8. TNT Road Company, Inc., Fort Kent. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. TNT Road Company, Inc. removed vegetation, disturbed soil, and placed fill in and adjacent to a stream in Fort Kent. The administrative consent agreement stipulates a monetary penalty of \$7,481. The Board approved the administrative consent agreement on May 20, 2021.
9. G&S Farms, Inc., Fort Kent. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. G&S Farms, Inc. owns the property and contracted with TNT Road Company, Inc. for the vegetation removal and earthwork activities summarized above for TNT Road Company, Inc. The administrative consent agreement stipulates a monetary penalty of \$2,787. The Board approved the administrative consent agreement on May 20, 2021.
10. Madaline Gregson, Houlton. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. Madaline Gregson caused the placement of fill within approximately 10,000 square feet of freshwater wetland on her property in Houlton without first obtaining a permit from the Department. The administrative consent agreement stipulates a monetary penalty of \$1,649. The Board approved the administrative consent agreement on May 20, 2021.

11. Brian Keith and Terri Ring, Houlton. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. Brian Keith and Terri Ring constructed a pond measuring approximately 6,000 square feet in size within a freshwater wetland on their property in Houlton without first obtaining a permit from the Department. Material excavated from the freshwater wetland was transported to the property owned by Madaline Gregson, resulting in the violations summarized above. The administrative consent agreement stipulates a monetary penalty of \$1,336. The Board approved the administrative consent agreement on May 20, 2021.
12. Robert O. Quint Construction, Inc., Houlton. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. Robert O. Quint Construction, Inc. was contracted by adjoining property owners Madaline Gregson, and Brian Keith and Terri Ring to perform the vegetation removal and earthwork activities summarized above. The administrative consent agreement stipulates a monetary penalty of \$2,065. The Board approved the administrative consent agreement on May 20, 2021.
13. Steven Hovey, Inc., Houlton. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and Erosion and Sedimentation Control, 38 M.R.S. § 420-C. Steven Hovey was sub-contracted by Robert O. Quint Construction, Inc. to perform the unauthorized vegetation removal and earthwork activities summarized above on the properties owned by Madaline Gregson, and Brian Keith and Terri Ring. The administrative consent agreement stipulates a monetary penalty of \$2,838. The Board approved the administrative consent agreement on May 20, 2021.
14. Stored Solar, LLC, West Enfield. This administrative consent agreement involves violations of Stored Solar, LLC's Air Emission License resulting from the untimely reporting of stack testing results. The administrative consent agreement stipulates a monetary penalty of \$1,000. The Board approved the administrative consent agreement on May 20, 2021.
15. Town of Machias, Machias. This administrative consent agreement involves violations of the Town's Maine Pollutant Discharge Elimination System permit; 38 M.R.S. § 413(1), Waste discharge licenses; and 38 M.R.S. § 414(5), Applications for licenses. In 2013, the Town of Machias' wastewater treatment plant experienced a significant sanitary sewer overflow during dry weather. After investigation, the Department found that serious operation and maintenance failures and lack of collection system maintenance had caused or contributed to the sanitary sewer overflow and an increased number of combined sewer overflow events. The administrative consent agreement

stipulates a monetary penalty of \$10,300 in the form of a supplemental environmental project as well as specific corrective actions to prevent future unlicensed discharges. The Board approved the administrative consent agreement on June 3, 2021.

16. Emerald Valley Ranches, LLC, Caribou. This administrative consent agreement involves violations of the Natural Resources Protection Act, 38 M.R.S. § 480-C, and the Erosion and Sedimentation Control Law, 38 M.R.S. § 420-C, resulting from earthwork activities performed by Emerald Valley Ranches, LLC in and adjacent to Greenlaw Brook in Caribou. The administrative consent agreement stipulates a monetary penalty of \$10,223. The Board approved the administrative consent agreement on October 7, 2021.
17. Benjamin Guptill, Patten. This administrative consent agreement involves violations of the State's Oil Discharge Prevention and Pollution Control laws, 38 M.R.S. §§ 543 and 548, resulting from the intentional application of oil onto a roadway by Benjamin Guptill. The administrative consent agreement stipulates reimbursement of \$6,228.84 to the Department for expenses incurred to remediate the contaminated soil. Mr. Guptill also agreed to stop applying oil to the road as a means of dust control and clean up any future oil spills immediately to the Department's satisfaction. The Board approved the administrative consent agreement on November 4, 2021.
18. Town of Camden. This administrative consent agreement involves violations of the Town's Maine Pollutant Discharge Elimination System permit; 38 M.R.S. § 413(1), Waste discharge licenses; and 38 M.R.S. § 414(5), Applications for licenses. Between April 2015 and April 2021, the Town of Camden discharged approximately 3.5 million gallons of untreated wastewater during sanitary sewer overflows (SSOs), the majority of which discharged from two emergency overflow structures in the Bayview and Sea Street pump stations. In addition to the SSOs and during this same period, the Town exceeded several Maine Pollutant Discharge Elimination System permit effluent limitations. The administrative consent agreement stipulates a monetary penalty of \$25,511 of which \$15,511 will be suspended contingent upon the implementation of an approved plan and schedule to address SSOs, including the rerouting and replacement of the force main at Sea Street, and the completion of a capacity, management, operations and maintenance plan. The Town shall pay \$10,000 to the Maine Coast Heritage Trust as a Supplemental Environmental Project. The Board approved the administrative consent agreement on December 2, 2021.
19. City of Brewer. This administrative consent agreement involves violations of the City's Maine Pollutant Discharge Elimination System permit; 38 M.R.S. § 413(1), Waste discharge licenses; and 38 M.R.S. § 414(5), Applications for licenses. In December of 2018, the City discharged an estimated 1.2 million gallons of untreated wastewater to

the Penobscot River due to a mechanical malfunction at a pump station. The Department also determined that the City had failed to perform certain effluent testing in accordance with its Maine Pollutant Discharge Elimination System permit. The administrative consent agreement stipulates a monetary penalty of \$35,000. The Board approved the administrative consent agreement on December 2, 2021.

20. Sprague Operating Resources LLC. This administrative consent agreement involves violations of 38 M.R.S. § 413(1), Waste discharge licenses. On December 2, 2020, Sprague personnel were operating a crane at their facility in Searsport 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, 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. The bales of SRF weighed approximately 1,250 pounds each. A significant amount of shredded plastic was discharged to the environment and was not completely recovered as part of the clean-up efforts. The administrative consent agreement stipulates a monetary penalty of \$17,800. The Board approved the administrative consent agreement on December 2, 2021.

G. Petitions to Modify a License or Order Corrective Action

The petition process is a mechanism to reopen a final license that was issued by the Department if certain conditions are found to exist. There were no such petitions referred to the Board by the Commissioner in 2021.

H. Other Duties

1. Triennial Review of Maine’s Water Classifications and Related Standards. Pursuant to 38 M.R.S. §§ 341-D(8), 464(2), and 464(3)(B), the Department of Environmental Protection conducts classification studies and the Board of Environmental Protection periodically holds public hearings for the purpose of reviewing the State’s water classification system and related water quality standards and recommending changes to such classifications and standards to the Legislature. The Department and the Board completed this “Triennial Review” process in calendar year 2021.

On January 4, 2022, the Board submitted its recommendations for changes to the State’s water classifications and related standards which includes discussion of the Board’s recommendations and the Department’s responses to comments received during the development of the final recommendations. The Board recommends that the Joint Standing Committee on Environment and Natural Resources include the changes to the

classifications and related standards recommended in this non-legislative study in a bill for the Committee's consideration in the Second Session of the 130th Legislature.

2. Per- and Polyfluoroalkyl Substances (PFAS) – Informational Briefings. PFAS refer to a group of manufactured chemicals known as Per- and Polyfluoroalkyl Substances. On two occasions in 2021, staff of the Department and the State Toxicologist briefed the Board on the current science, investigation, mitigation, and resource demands faced by the agency as knowledge concerning PFAS contamination increases. The Department anticipates a significant investment of time, money, and staff resources over the next several years will be required to properly manage the various emerging issues related to PFAS contamination. Department staff will keep the Board apprised of significant developments through periodic briefings. At this time, there are no matters related to PFAS contamination pending before the Board.

IV. CLOSING

As noted above, this report is submitted in fulfillment of the provisions of 38 M.R.S. § 341-D(7). I would be happy to meet with the Committee and respond to any questions members may have regarding the Board's work and the specific recommendations in this report.

Respectfully submitted,



Mark C. Draper, Chair
Board of Environmental Protection

Attachment A: Board members' biographical information

ATTACHMENT A

Attachment A: Board of Environmental Protection Members



Mark C. Draper, Chair
Caribou, 2nd Term

Mr. Draper is the Solid Waste Director for Aroostook Waste Solutions (formerly Tri-Community Recycling and Sanitary Landfill) in Fort Fairfield, a position he has held since 2003. Mr. Draper previously held the position of Senior Environmental Engineer at the former Champion International Corporation/International Paper mill in Bucksport where he was responsible for oversight of the mill's landfill operation, waste reduction and recycling activities, and hazardous waste management. Mr. Draper also served as plant engineer for the mill's 290-MW co-generation power plant from 2001-2003. Mr. Draper served on the Board of the Maine Resource Recovery Association for 14 years and is currently Chairman of the Northern Maine Solid Waste Management Committee. He was appointed to the Board by Governor Paul R. LePage in October 2014, and appointed for a second term in June 2018. Governor Janet T. Mills appointed Mr. Draper Chair in March 2019.



James W. Parker
Veazie, 2nd Term

Mr. Parker is a professional engineer and former State Representative for District 18. Mr. Parker served in the 125th Legislature and was a member of the Joint Standing Committee on Environment and Natural Resources and the Special Select Committee for Regulatory Fairness and Reform. Mr. Parker graduated from the University of Maine with a B.S. in civil engineering. Following employment with James W. Sewall Company, he founded Civil Engineering Services, Inc. (CES, Inc.), an engineering consulting firm providing services in a variety of areas including water supply, wastewater, solid and hazardous waste management, and site development. Mr. Parker retired from the firm in 2009, and now spends summers as a charter captain for whale and sightseeing tours on the downeast coast. Mr. Parker was appointed to the Board by Governor Paul R. LePage in June 2013; he was appointed for a second term in May 2017. Mr. Parker served as Chair from December 2014 to March 2019.



Mark Dubois
Falmouth, 1st Term

Mr. Dubois, a professional geologist, is the Natural Resources Manager for springs and land in Maine for Poland Spring / Nestle Waters North America. He was previously employed by Woodard & Curran Engineers and Atlantic Geoscience, Inc. Mr. Dubois has worked on a variety of projects in Maine and elsewhere in the Northeast related to drinking water, site characterization, and remediation of contaminated sites. Mr. Dubois received his B.S. in Geology from the University of Maine and his M.S. in Hydrogeology and Glacial Geology from the University of Cincinnati. He also conducted research on glacial geology in the Antarctic and is a recipient of the Antarctic Service Medal. Mr. Dubois's community service includes coaching youth baseball and soccer. Mr. Dubois resides in Falmouth with his wife and two children. Mr. Dubois was appointed to the Board by Governor Paul R. LePage in January 2018.

Attachment A: Board of Environmental Protection Members



Susan M. Lessard
Bucksport, 1st Term

Ms. Lessard is the Town Manager for the Town of Bucksport. She previously served as the Town Manager for the communities of Hampden, Vinalhaven, Fayette, and Livermore Falls. Over her career in municipal government, Ms. Lessard has gained extensive experience in solid waste management issues, municipal financial management, and community development. She is a past president of the Maine Municipal Association and has served on the Municipal Review Committee and the Maine Rural Development Council. Ms. Lessard has received several awards including the Governor's Environmental Excellence Award (2002), Maine Engineering Excellence Award (1998), and Maine Town and City Manager's Association Leadership Award (1999). Ms. Lessard was appointed to U.S. EPA's Local Government Advisory Committee in 2018. Ms. Lessard resides in Bucksport with her husband Dan. She was appointed to the Board by Governor Paul R. LePage in January 2018.



Robert S. Duchesne
Hudson, 1st Term

Robert Duchesne is a former State Legislator and radio show broadcast host. During his radio career, Mr. Duchesne was active in charity and public service organizations in the Bangor area, including Downeast Big Brothers Big Sisters, Maine Audubon, and the Maine Association of Broadcasters. He also served on several economic and business development boards. In 2005, Mr. Duchesne was elected to the Maine House of Representatives, where he served six non-consecutive terms. While in the Legislature, he chaired both the Environment and Natural Resources Committee and the Inland Fisheries and Wildlife Committee. Mr. Duchesne is owner and operator of Maine Birding Trail. Mr. Duchesne also shares his birding expertise in a weekly birding column for the Bangor Daily News and the Woods and Waters column for Bangor Metro magazine. Robert Duchesne resides at Pushaw Lake in Hudson with his wife, Sandi. He was appointed to the Board by Governor Janet T. Mills in March 2019.



Robert M. Sanford
Gorham, 1st Term

Robert Sanford is Chair of the Department of Environmental Science & Policy at the University of Southern Maine, a position he has held since 2010. Mr. Sanford obtained his M.S. and Ph.D. degrees in Environmental Science from the State University of New York College of Environmental Science and Forestry. He is the author of numerous books and journal articles on environmental planning and policy, applied archeology, instruction, and civic engagement. Prior to joining the faculty of the University of Southern Maine in 1996, Mr. Sanford served 10 years as an Environmental Board District Coordinator for the State of Vermont administering a land-use permitting program for one of Vermont's nine environmental districts. In addition to his teaching and academic research responsibilities, Mr. Sanford has served on numerous advisory committees including the Maine Water Resources Committee, the Maine Farmland Project, the Friends of the Presumpscot River, and the Town of Gorham's Municipal Recycling Committee. He lives in Gorham with his wife and son. Robert Sanford was appointed to the Board by Governor Janet T. Mills in July 2019.

Attachment A: Board of Environmental Protection Members



Steven Pelletier
Topsham, 1st Term

Mr. Pelletier is a Certified Wildlife Biologist®, Maine Licensed Forester, and Professional Wetland Scientist with over 40 years of professional natural resource experience. Earlier in his career he served as a Wildlife Biologist with the US Forest Service and as an Environmental Specialist for the Maine Department of Environmental Protection's Land Bureau, was later co-founder/ owner of Woodlot Alternatives, Inc., a Maine-based ecological consulting firm, until its acquisition by Stantec Consulting in 2007. At Stantec he served as Senior Principal and US Ecosystems Discipline Lead specializing in rare species habitats and site and landscape-level resource assessments, also serving as Principal Investigator of two federal offshore migration research projects. Mr. Pelletier also conducted and oversaw a broad variety of diverse projects ranging from highway/ rail transportation to offshore energy development. He has authored numerous publications on a variety of natural resource topics including forest biodiversity, bat migration, vernal pools, and resource mitigation and compensation planning. He has served on a variety of Federal and State advisory committees and stakeholder groups and in 1989, co-founded the Maine Association of Wetland Scientists. He currently serves on the Maine Board of Licensure of Foresters and several local community organizations including the Brunswick-Topsham Land Trust Advisory Board, Topsham Conservation Commission, and Topsham Development, Inc. Mr. Pelletier resides in Topsham with his wife Mary. He was appointed to the Board by Governor Janet T. Mills in February 2020.
