



*one copy*

DEPARTMENT ORDER  
IN THE MATTER OF

DANIEL A. PRAY, SR.	)	SEPTAGE ORDER
CHARLESTON, PENOBSCOT COUNTY, MAINE	)	
SEPTAGE NON-UTILIZATION SITE	)	
S-022381-S2-A-N	)	
(APPROVAL WITH CONDITIONS)	)	NEW LICENSE

Pursuant to the provisions of the *Maine Hazardous Waste, Septage and Solid Waste Management Act*, 38 M.R.S.A. §§ 1301 to 1319-Y and the *Septage Management Rules*, 06-096 CMR 420 (effective September 8, 1997), the Department of Environmental Protection (Department) has considered the application of the DANIEL A. PRAY, SR. (applicant), with the supportive data, agency review comments and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

The applicant is seeking license approval for septage non-utilization on an 11.5-acre site in Charleston. The site is located on the east town line of Charleston, approximately 2,620 feet west of the Pond Road in Bradford.

2. TITLE, RIGHT, OR INTEREST

The property to be used, along with a right-of-way from Pond Road, is owned by the applicant, who has submitted a copy of the property deed.

The Department finds that the applicant has demonstrated sufficient title, right or interest to the property on which the project is located.

3. FINANCIAL CAPACITY AND TECHNICAL ABILITY

A. Financial Capacity: The applicant estimates that the cost to develop the site to be \$10,000. The majority of these costs are for site preparation that has already been completed including clearing and stumping. Ongoing operating costs will be met using funds from septage disposal fees collected by the applicant.

B. Technical Ability: The applicant has operated other licensed septage land application sites in substantial compliance with 06-096 CMR 420, including two licensed by the applicant in 2010 which have since been closed. In April of 2014, the applicant (d/b/a Grant's Septic Service), the Department, and the Maine Department of Attorney General entered into an Administrative Consent Agreement to resolve violations of the *Maine Hazardous Waste, Septage and Solid Waste Management Act*, 38 M.R.S.A. § 1306(1) as well as Department's

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rules *Non-Hazardous Waste Transporter Licenses* (06-096 CMR 411) and *Septage Management Rules* (06-096 CMR 420) which occurred between August 18, 2010 and June 2013. These violations included failure to properly manifest transported septage and dumping of these loads at several unlicensed locations. These violations were grouped together under Department Enforcement Docket No. 2013-005-S.

Given that the applicant has previously operated licensed septage utilization sites in substantial compliance with the Department's Rules, and that the violations described above were not associated with the applicant's operation of licensed septage utilization sites; the Department finds that the applicant has the financial capacity and technical ability to develop and operate the project in a manner consistent with State environmental standards.

4. MUNICIPAL APPROVAL

38 M.R.S.A. § 1305(6) requires that, in addition to making application to the Department for approval of a septage site, the applicant must also obtain written approval for the site location from the municipality in which the facility is to be located. The applicant has submitted a Municipal Approval Form signed by the Chairman of the Charleston Planning Board and dated January 4, 2012, which indicates the Town of Charleston has determined that municipal approval must be obtained after issuance of a Department Order.

5. EXISTING USES/SCENIC CHARACTER

- A. Site Description: The proposed 11.5-acre landspreading site is located on the east town line of Charleston. The site has been cleared and stumped, and initially seeded to grass in 2012. There is no vehicular or other public access to the site except for the existing field access road from Pond Road in Bradford. Although initially seeded in 2012, vegetative cover on the site is not currently sufficient for application of septage. The applicant has provided a Seeding Plan (described in Finding of Fact #9) to establish vegetative cover to allow ongoing septage application.
- B. Endangered Species: There are no designated critical or essential endangered species habitat within the proposed project area.
- C. Floodplains: The project site is not located within a 100-year flood zone.
- D. Sand and Gravel Aquifer: The project site is not located over a significant sand and gravel aquifer.

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E. Protection of Surface Waters: The project meets the siting requirements of 06-096 CMR 420(4). 06-096 CMR 420(6)(H) prohibits the application of septage to a site immediately prior to or during heavy rainfall, or when the soil is unvegetated, frozen, snow-covered or water-saturated. At a site where septage is surface applied, the water table may not be less than 15 inches below the ground surface at the time of septage application.

6. SITE PREPARATION

The site has been cleared and stumped, and was planted to grass in 2012. As is described in Finding of Fact #9, the applicant proposes further revegetation of the site. 06-096 CMR 420(5)(C) requires that easily-seen markers or stakes be placed and maintained along the perimeter of the approved septage land application area for the duration of the license period.

The Department finds that the applicant should place easily-seen markers or stakes along the perimeter of the approved septage land application area detailed on the High Intensity Soil Survey map. The markers or stakes should be maintained for the duration of the license period. If it is necessary to remove markers or stakes for crop harvesting, the markers or stakes should be replaced prior to continuation of septage land application.

7. SETBACKS AND BUFFERS

The applicant proposes to operate the site for septage non-utilization. 06-096 CMR 420(4)(B) requires that the site boundaries of a septage non-utilization area must comply with the minimum buffer zones as specified in 06-096 CMR 420(4)(B) Table 1: minimum of 1,000 feet from a public well; 300 feet from a private well and a perennial waterbody/watercourse; 250 feet from a property line and a public road; 2,500 feet from a dwellings/occupied building; 100 feet from an intermittent stream or brook; and 25 feet from a waterway/constructed drainage ditch. The area proposed for non-utilization of septage meets the required setbacks.

The Department finds that the proposed project site complies with the requirements in 06-096 CMR 420(4)(B) for all applicable setbacks and buffers for the non-utilization of septage, and the applicant is therefore not required to screen or lime-stabilize septage prior to the land application of septage at the site.

8. SITE SOILS

A. Soil Description: Mapping of the site was performed by Corinne S. Knapp, Maine Certified Soil Scientist #285. In her High Intensity Soil Survey-Class B report, dated September 23, 2011, Ms. Knapp mapped 11.5 acres with surface slopes not exceeding 8% that were determined to be suitable for the land

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application of septage. The proposed 11.5-acre site consists of 3.1 acres of somewhat poorly drained Dixmont soils, and 8.4 acres of moderately well drained Dixmont soils.

- B. Soil Nutrients: A soil test report, dated August 12, 2011, submitted by the applicant for the site indicates that all parameters are within the limits established by the Department.

The Department finds that the proposed project will take place on soil types suitable to the nature of the undertaking and that all soil nutrient parameters are within the limits established by the Department.

9. SITE CAPACITY AND VEGETATION MANAGEMENT

- A. Agronomic Rate: 06-096 CMR 420(6)(D) requires the applicant to determine the amount, in pounds (lbs.) per acre, of nitrogen (N) required for the crop to be grown at the site. On moderately well-drained and somewhat poorly drained soils, 06-096 CMR 420(6)(D) allows septage to be applied at a rate not to exceed 380 gallons of septage per pound of N required by the crop per acre per year.

- B. Site Capacity:

- 1) Revegetation Phase: Following clearing and stumping, the proposed site was seeded to grass in 2012. As might be expected on forest soils in Maine, however, the catch of grass was insufficient to support land application of septage as contemplated in the Department's Rules. To address this, the applicant has submitted a revegetation plan based on in a soil test report with recommendations for grass seeding (Crop Code #154) from the Maine Soil Testing Service (MSTS) dated February 18, 2013. The plan calls for the application of 60 pounds of nitrogen per acre prior to reseeding. The applicant proposes to supply the recommended nitrogen by application of septage at the 380 gallons per pound of N required ratio, or 22,800 gallons; to be applied sequentially to eight approximately 1.4-acre sections of the proposed site. In accordance with MSTS's recommendation, the septage will be applied to each section of the proposed site in turn and tilled in, then that section will be reseeded. Septage application and reseeding will progress across the site one section at a time, starting at the section farthest from the vehicular access point, then proceeding downslope toward the vehicular access point. Septage application and reseeding of the site in this proposed stepwise manner will allow the earlier reseeded sections to be free of traffic as the latter sections are fertilized and reseeded in turn. A low earthen berm will be constructed and maintained on the downslope edge of each section during its active

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septage application and reseeding phase to delineate it and prevent any septage runoff onto the adjacent section. Septage application and reseeding of the entire 11.5-acre site in this fashion will require 262,200 gallons of septage.

2) Ongoing Operations: The recommended N loading rate for a hay/grass crop referenced in 06-096 CMR 420 Appendix B, is 120 lbs. N for two crops annually. This is actually the estimated total seasonal N application rate recommended by the 1997 *Soil Testing Handbook for Professionals in Agriculture, Horticulture, Nutrient and Residuals Management: Third Edition*. Therefore, the Department finds that the total annual maximum capacity for 11.5 acres at an application rate of 380 gallons of septage per pound of N required per acre per year is 524,400 gallons.

C. Vegetation Management: Because the applicant proposes to operate the site for non-utilization, without lime-stabilizing septage prior to landspreading, the Department finds that during the license period and for 38 months after license expiration the site should not be used for the growing of food, feed and fiber crops, for the growing of commercial turf, or for the mining of topsoil. The Department also finds that the vegetation grown at the site should not exceed 12 inches in height and that in any growing season when septage is applied at the site, the grass/hay must be cut a minimum of three times annually and composted at an appropriately licensed Type II compost facility, disposed at a licensed solid waste disposal facility, or incinerated, in accordance with 06-096 CMR 420(6)(J)(2).

10. AIR QUALITY AND NUISANCE ABATEMENT

A. Air Quality and Odors: The applicant does not propose to discharge any contaminant to the ambient air. The facility meets or exceeds all setback requirements established by 06-096 CMR 420. Odors from handling septage generally persist for a short time after application. Odors dissipate at different rates subject to prevailing climatic conditions. Due to the low volume of traffic expected at the site, the applicant does not anticipate an adverse impact from fugitive dust.

B. Nuisances: The applicant will rely on the rural setting, remoteness of the site, setback distances, and buffers to mitigate any potential odor nuisance problems.

The Department finds that the proposed facility will not contaminate the ambient air nor create a nuisance.

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11. TRAFFIC MOVEMENT

The site is accessed by a private field access road which connects to Pond Road in a rural area of Bradford at the point where Pond Road transitions from gravel to asphalt pavement. The applicant proposes an average flow of two (2) vehicle trips per day to and from the site. The existing gravel access road is suitable for the movement of septage trucks during the operating season.

The Department finds that the applicant has made adequate provisions for the movement of traffic into, out of, and within the facility.

12. ACCESS CONTROL

The proposed septage site will share an existing gravel road currently used to access several farm fields. The proposed septage facility is at the end of the road. A lockable gate and sign have been installed at the entrance to the site to restrict public access. At sites proposed for the non-utilization of septage, 06-096 CMR 420(6)(K)(2)(a) requires that a fence must be installed a minimum of 15 feet beyond the site boundary to delineate the restricted area. 06-096 CMR 420(6)(K)(2)(b) requires lockable gates to be installed at all vehicular access points and kept locked when the site is not being actively used for septage land application. 06-096 CMR 420(6)(K)(2)(c) requires that legible signs must be posted every 100 feet along the site boundary or fenceline.

The Department finds that the existing gate and sign meets the requirement in 06-096 CMR 420(6)(K)(2)(b) to restrict vehicular access. The Department also finds that prior to commencing use of the site, a fence should be installed a minimum of 15 feet beyond the site boundary to delineate the restricted area in accordance with 06-096 CMR 420(6)(K)(2)(a). The Department further finds that the applicant should also post signs every 100 feet along the fenceline in accordance with 06-096 CMR 420(6)(K)(2)(c).

13. OPERATING PLAN

The applicant has submitted an operating plan as required by 06-096 CMR 420(8)(U).

14. RECORD-KEEPING AND REPORTING

The applicant is required to keep records and to submit an annual report regarding his operation of the septage site, in accordance with 06-096 CMR 420(7)(A)(2). The applicant must provide information to summarize site operations for the previous year, including the volumes and dates of septage application at the site, buffer zone inspection reports, a listing of any complaints received and actions taken to address these, and annual soil analysis results, to the Bureau of Remediation and Waste Management, on or

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before January 31<sup>st</sup> of each year in accordance with 06-096 CMR 420(7)(B). Annual reports will be submitted on forms provided by the Department.

BASED on the above Findings of Fact, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The applicant has demonstrated sufficient title, right, or interest to the property on which the facility is located.
2. The applicant has the financial capacity and the technical ability to develop the project in a manner consistent with State environmental standards.
3. The applicant has made adequate provisions for the movement of traffic of all types into, out of and within the site.
4. The facility will not contaminate waters of the State or the ambient air, constitute a hazard to health or welfare, and will not create a nuisance provided that:
  - A. The applicant obtains, and submits for Department records, written approval for the septage non-utilization site from the town of Charleston;
  - B. Non-utilization of septage shall be by landspreading;
  - C. The land application of septage is limited to the 11.5 acres licensed herein;
  - D. Markers or stakes are placed to delineate the area approved for septage land application;
  - E. A fence is installed a minimum of 15 feet beyond the site boundary to delineate the restricted area in accordance with 06-096 CMR 420(6)(K)(2)(a);
  - F. The gate at the vehicular access point is kept locked when the site is not being actively used for septage land application in accordance with 06-096 CMR 420(6)(K)(2)(b);
  - G. Signs are posted every 100 feet along the site boundary or fenceline in accordance with 06-096 CMR 420(6)(K)(2)(c);
  - H. During the license period and for 38 months after license expiration, the site is not used for the growing of food, feed and fiber crops, for the growing of commercial turf, or for the mining of topsoil;

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- I. The total annual maximum loading rate on the site does not exceed 262,200 gallons during the initial revegetation phase and 524,400 gallons during ongoing operations;
  - J. The vegetation grown at the site does not exceed 12 inches in height;
  - K. In any growing season when septage is applied at the site, the grass/hay is cut a minimum of three times annually and composted at an appropriately licensed Type II compost facility, disposed at a licensed solid waste disposal facility, or incinerated;
  - L. Septage is not land applied immediately prior to or during heavy rainfall, or when the soil is unvegetated, frozen, snow covered, or water saturated; and
  - M. The water table is not less than 15 inches below the ground surface at the time of septage application.
4. The project site complies with all applicable setbacks and buffers for the non-utilization of septage and, the septage is therefore not required to be screened or lime-stabilized prior to land application.

THEREFORE, the Department APPROVES the above-noted application of the DANNY PRAY, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

- 1. The Standard Conditions of Approval, a copy of which is attached as Appendix A.
- 2. The applicant must obtain, and submit for Department records, written approval for the septage non-utilization site from the town of Charleston.
- 3. Land application of septage shall:
  - A. Be by landspreading;
  - B. Be limited to the 11.5 acres licensed herein;
  - C. Not exceed a total annual maximum loading rate of 262,200 gallons during the initial revegetation phase, and 524,400 gallons during ongoing operations;



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- D. Not occur immediately prior to or during heavy rainfall, or when the soil is unvegetated, frozen, snow covered, or water saturated; and
- E. Not occur when the water table is less than 15 inches below the ground surface.
- 4. Markers or stakes shall be placed to delineate the open areas approved for septage land application.
- 5. A fence shall be installed a minimum of 15 feet beyond the site boundary to delineate the restricted area in accordance with 06-096 CMR 420(6)(K)(2)(a).
- 6. The gate at the vehicular access point shall be kept locked when the site is not being actively used for septage land application in accordance with 06-096 CMR 420(6)(K)(2)(c).
- 7. Signs shall be posted every 100 feet along the site boundary or fenceline in accordance with 06-096 CMR 420(6)(K)(2)(c).
- 8. During the license period and for 38 months after license expiration the site shall not be for the growing of food, feed and fiber crops, for the growing of commercial turf, or for the mining of topsoil.
- 9. The vegetation grown at the site shall not exceed 12 inches in height.
- 10. In any growing season when septage is applied at the site, the vegetation shall be cut a minimum of three times annually and composted at an appropriately licensed Type II compost facility, disposed at a licensed solid waste disposal facility, or incinerated.
- 11. The applicant shall keep records and submit an annual report regarding the operation of the septage land application in accordance with 06-096 CMR 420(7)(A) and (B). The applicant shall provide information to summarize site operations for the previous year, including all soil sample analysis results required by 06-096 CMR 420, to the Bureau of Remediation and Waste Management, on or before January 31<sup>st</sup> of each year in accordance with 06-096 CMR 420(7)(B). Annual reports shall be submitted on forms provided by the Department.

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3. This license will expire five (5) years from the date of signature.

DONE AND DATED AT AUGUSTA, MAINE THIS 4<sup>th</sup> DAY  
OF June, 2014.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

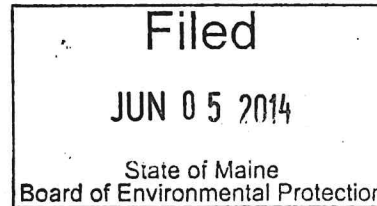
BY: Melanie Pegg for  
Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

Date of initial receipt of application: 10/12/11

Date of application acceptance: 11/02/11

Date filed with Board of Environmental Protection:



This Order prepared by Roger H. Johnstone, Bureau of Remediation and Waste Management.

XRJ74012/dlp