



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
ACTING COMMISSIONER

Certified Mail #: 7014 0150 0000 0667 6830

January 15, 2021

Jason Littlefield
Sprague Operating Resources, LLC
185 International Drive
Portsmouth, NH 03801

**Re: Notice of Violation, Sprague Operating Resources, LLC, Bureau of Water Quality,
Notice of Violation # 2021-005-W.**

Dear Mr. Littlefield:

Enclosed is a Notice of Violation (“NOV”) alleging your failure to comply with Maine’s Water Pollution Control Law 38 M.R.S § 413(1). The NOV relates to violations documented by Department staff on December 9, 2021 at the Sprague terminal, the waters on Long Cove, the adjacent shore of Sears Island. These violations are more fully described in the attached NOV. The Department offers technical assistance which may assist you. If you require technical assistance concerning this NOV please contact the case manager identified below.

A NOV is an administrative notice that is required by Maine law to be sent to parties the Department believes are responsible for violations of the state’s laws, Department’s rules, and/or orders, prior to initiating civil enforcement actions. The nature and circumstances surrounding the violations discovered has led DEP to conclude that final resolution of this matter should include monetary penalties as part of a civil penalty action. A prompt response and full and timely compliance with this NOV are two factors that may be used by the DEP in assessing a civil monetary penalty. The necessary next steps to fully resolving this matter will be discussed once you contact me within the timeframe provided for in the NOV. Thank you for your attention to this matter.

Sincerely,

Pamela Parker, Enforcement Unit Manager
Bureau of Water Quality

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

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

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

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



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Bureau of Water Quality
 17 State House Station
 Augusta, Maine 04333-0017
 Telephone: (207) 485-3038

Notice of Violation

PART I: GENERAL INFORMATION

<u>ALLEGED VIOLATOR'S NAME:</u> Sprague Operating Resources LLC	<u>DOCKET NUMBER:</u> 2021-005-W
<u>ALLEGED VIOLATOR'S MAILING ADDRESS:</u> 185 International Drive, Portsmouth, NH 03801	<u>DATE ISSUED:</u> January 15, 2021
<u>PHYSICAL LOCATION OF VIOLATIONS:</u> Trundy Road, Mack Point, Searsport, Maine	<u>CERTIFIED MAIL NUMBER:</u> 7014 0150 0000 0667 6830
<u>POINT OF CONTACT (IF DIFFERENT FROM ALLEGED VIOLATOR):</u> Jason Littlefield	<u>TELEPHONE NUMBER:</u> 603-430-7205

PART II: INFORMATION CONCERNING THE ALLEGED VIOLATION

YOU OR YOUR COMPANY IS BELIEVED TO BE RESPONSIBLE FOR THE FOLLOWING VIOLATION(S) OF MAINE'S ENVIRONMENTAL LAWS, RULES, OR DEPARTMENT ORDERS.

SUMMARY OF FACTS ALLEGED AS BASIS FOR VIOLATION(S):

Sprague Operating Resources LLC (Sprague) is a Delaware corporation, with its principle location of business Two International Drive, Suite 200 Portsmouth NH 03801-6809, authorized to conduct business in Maine that operates a bulk fuel and cargo storage and transfer facility (terminal) located at Mack Point, on Trundy Road, in Searsport, Maine. Sprague handles and manages bulk cargo that is off loaded or unloaded to tanker and cargo vessels at the two piers at the facility.

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. The bales of solid recovered fuel measured approximately 42" x 42" x 72", weighed approximately 2500 lbs, 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. At about 1 PM, 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, it was carried by wind and current north around the bow of the ship, then sank out of sight north and east of the ship.

Sprague reported later that they did not immediately attempt to recover the material due to poor weather and safety concerns and the lack of response equipment. After the incident, Sprague instructed staff to monitor the shore of the Sprague property for debris related to the incident.

DISTRIBUTION:	Case File	Enforcement Director	AG's Office	EPA	Other: _____
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On December 4, 2020, the M/V Sider London departed. Another storm with high wind and rain made further investigation and potential recovery difficult.

On December 8, 2020, the DEP 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. DEP was aware of the SRF's unloading at the terminal and because the material referenced in the complaint sounded similar to the SRF, DEP staff contacted Sprague to inform them of the complaint. Suspecting that the material had come from the terminal, DEP advised Sprague to inspect the shorelines and clean up any material. Sprague did not report the lost cargo during that communication.

On December 9, 2020, DEP response staff visited the site. Sprague reported the December 2, 2020 incident regarding lost plastic bales. DEP was informed 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.

On December 10, 2020, a professional diver hired by Sprague searched for the second bale in the approximate location it was last seen 8 days prior. The diver was unable to locate the second bale.

On December 9-18, 2020 Sprague continued to inspect the shore daily and clean-up the spilled material using their own personnel and contractors while aided by a large number of volunteers. Sprague stockpiled the collected material in bags near the pier where the spill occurred.

On December 15, 2020, DEP staff met onsite with Sprague to review the incident and evaluate the status of the clean-up efforts. DEP staff strongly encouraged Sprague to pursue additional search methods to determine the disposition of the second bale. DEP staff inspected the western shore of Sears Island, south to the large sandbar. Shredded plastic consistent with the SRF was observed in moderately low concentrations in the seaweed at the high-water mark. Little plastic was observed below the high-water mark. No large clumps of SRF were observed. Sprague personnel and contractors continued to pick up plastic debris regardless of its origin, including water bottles, large rigid plastic items and other trash.

On December 15, 2020 Sprague provided the Department with a proposed forward action plan that included continuing to clean plastic from the Sears Island shore through December 18, continuing to pursue search and recovery efforts for the missing second bale, setting up a reporting e-mail for the general public, investigating and cleaning up any material suspected of originating from the spill, and continued daily inspections of the causeway and Sears Island shore.

On December 16, 2020, Sprague set up an e-mail for the general public to report plastic spills.

On December 16, 2020 Department staff followed up with Sprague regarding the action plan detailed on by Sprague on December 15.

On December 21, 2020, Sprague employed a vessel equipped with side scan sonar to search the cove northeast of the pier. During the search a target was identified that warranted further investigation by a dive team.

On December 23, 2020, a team of professional divers hired by Sprague investigated the target identified on December 21, 2020 and located the second bale of material. The divers secured the bale and it was recovered intact.

On January 5, 2021, DEP authorized Sprague to reduce inspections to weekly, maintain the reporting e-mail, and suspend current clean-up efforts.

LIST SPECIFIC VIOLATIONS BY APPLYING FACTS TO SPECIFIC STATUTE(S), RULE(S), OR ORDER(S) VIOLATED:

Maine's *Pollution Control* law, 38 M.R.S § 413 states in relevant part:

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.*

38 M.R.S. § 361-A(1) defines "Discharge" as:

...any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of any pollutant to water of the State.

38 M.R.S. § 361-A(4-A) defines "Pollutant" as:

...dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

38 M.R.S. § 361-A(7) defines "Waters of the State" in relevant part as:

...any and all surface and subsurface waters that are contained within, flow through, or under or border upon this State or any portion of the State, including the marginal and high seas...

By discharging a pollutant, namely 1.25 US tons of shredded plastic and linen waste, to the Waters of the State, Sprague violated 38 M.R.S § 413(1).

REQUESTED CORRECTIVE ACTION(S):

1. By March 1, 2021, develop a standard operating procedure to minimize the potential for any type of cargo other than petroleum products to be lost overboard during transfer to and from the vessel and pier and submit it to the DEP for review and approval.
2. By March 1, 2021, develop a standard operating procedure to be followed in the event of any type of cargo, other than petroleum products, being lost overboard or spilled and submit it to the DEP for review and approval.

TIMELY COOPERATION ON THE CORRECTIVE ACTIONS REQUESTED IN THIS NOTICE OF VIOLATION AND CONTACTING THE CASE MANAGER BY PHONE OR IN WRITING WITHIN 5 DAYS OF RECEIVING THIS NOTICE OF VIOLATION ARE TWO FACTORS THAT MAY AFFECT THE AMOUNT OF MONETARY PENALTIES THE DEPARTMENT EXPECTS TO PURSUE IN THIS MATTER. THE DEPARTMENT OFFERS TECHNICAL ASSISTANCE WHICH MAY ASSIST YOU IN CORRECTING VIOLATIONS AND PREVENTING FUTURE VIOLATIONS. IF YOU REQUIRE TECHNICAL ASSISTANCE CONCERNING THIS NOTICE OF VIOLATION, PLEASE CONTACT THE CASE MANAGER IDENTIFIED BELOW.

PART III: DEPARTMENT ENFORCEMENT CONTACT

ENFORCEMENT CASE MANAGER:

Pamela Parker

TELEPHONE NUMBER:

207-485-3038

State of Maine, Department of Environmental Protection



By: _____