



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
COMMISSIONER

IN THE MATTER OF:

SPRAGUE OPERATING RESOURCES LLC SEARSPORT, MAINE PROTECTION AND IMPROVEMENT OF WATERS EIS DOCKET #2021-005-W))))))	ADMINISTRATIVE CONSENT AGREEMENT (38 M.R.S. § 347-A)
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This Agreement, by and among Sprague Operating Resources LLC (“Sprague”), and the State of Maine, Department of Environmental Protection (“Department”), as approved by the Maine Board of Environmental Protection (“Board”), and the Office of the Attorney General (“OAG”) is entered into pursuant to the laws concerning the Department’s *Organization and Powers*, 38 M.R.S. §§ 347-A(1) and 341-D(6).

THE PARTIES AGREE AS FOLLOWS:

1. Sprague is a Delaware corporation, with its principle location of business in Portsmouth NH, 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 onloaded to tanker and cargo vessels at the two piers at the facility.
2. The violation described herein occurred at the eastern pier and in the waters adjacent to pier at the Mack Point in Searsport.
3. 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 2,500 lbs combined, 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 p.m., 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 and sank out of sight north and east of the ship.

Sprague later reported to Department response staff that they did not immediately attempt to recover the material due to poor weather and safety concerns. After the incident,

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Sprague instructed staff to monitor the shore of the Sprague property for debris related to the incident.

4. On December 8, 2020, the Department received a complaint regarding garbage/plastic in the water and on the shore of the causeway leading to Sears Island and on the western shore of Sears Island itself. The Department was aware of the unloading of the SRFs at the terminal. Because the material referenced in the complaint sounded similar to the SRF, Department staff contacted Sprague to inform it of the complaint. Suspecting that the material had come from the terminal, the Department advised Sprague to inspect the shorelines and clean up any material. Sprague did not report the lost cargo to the Department during that communication.
5. On December 9, 2020, Department response staff visited the site. Sprague reported the December 2, 2020 incident regarding the lost plastic bales. Sprague informed the Department that Sprague staff had begun inspecting beaches/shoreline and collecting plastic waste. Sprague hired a contractor to conduct a more thorough inspection and clean up.
6. 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.
7. Between December 9 and 18, 2020, Sprague continued to inspect the shore daily and clean-up the spilled material using their own personnel and contractors, aided by a large number of volunteers. Sprague stockpiled the collected material in bags near the pier where the spill occurred.
8. On December 15, 2020, Department staff met onsite with Sprague to review the incident and evaluate the status of the clean-up efforts. Department staff strongly encouraged Sprague to pursue additional search methods to determine the disposition of the second bale. Department 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.
9. 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, 2020, continuing to pursue search and recovery efforts for the missing second bale, setting up a reporting e-mail for the general public, investigating and

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cleaning up any material suspected of originating from the spill, and continuing daily inspections of the causeway and Sears Island shore.

10. 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.
11. 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.
12. On January 5, 2021, the Department authorized Sprague to reduce inspections from daily to weekly, maintain the reporting e-mail, and suspend current clean-up efforts due to the unfavorable winter conditions and minimal plastic that was primarily imbedded in a thick wrack line.
13. Throughout the period of time addressed by this Agreement, Sprague was subject to the following:
 - a. Maine’s *Pollution Control* law, 38 M.R.S § 413(1), which states in relevant part:

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.
 - b. Maine Law 38 M.R.S. § 361-A(1) defines “Discharge” as:

[A]ny spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of any pollutant to water of the State.
 - c. Maine Law 38 M.R.S. § 361-A(4-A) defines “Pollutant” as:

[D]redged 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.
 - d. Maine Law 38 M.R.S. § 361-A(7) defines “Waters of the State” in relevant part as:

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[A]ny 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

14. By discharging 1.25 US customary tons of shredded plastic, paper, fabric and other non-putrescible materials waste to waters of the State, Sprague violated 38 M.R.S § 413(1).
15. On January 15, 2021, the Department issued a Notice of Violation to Sprague for the activities described in Paragraph 3 and 14 of this Agreement, in accordance with 38 M.R.S. § 347-A(1)(B).
16. On February 25, 2021, Sprague submitted to the Department proposed revisions to the Terminal Operations Manual to address the corrective actions requested in the Notice of Violation. On April 26, 2021, the Department provided comments on the revisions. The Department and Sprague met to discuss the proposed changes on June 8, 2021. The revisions were finalized in June, 2021 and training conducted with the Maine terminal management teams on July 20, 2021.
17. This Agreement is not effective until it is approved and signed by the Board and the OAG.
18. To resolve the violation referred to in Paragraphs 3 and 14 of this Agreement, Sprague agrees to pay to the *Treasurer, State of Maine*, immediately upon signing this Agreement, a civil monetary penalty in the amount of seventeen thousand eight hundred dollars (\$17,800.00).
19. The Department and OAG grant a release of their causes of action against Sprague for the specific violation listed in Paragraphs 3 and 14 of this Agreement on the express condition that all actions listed in Paragraph 18 of this Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until all requirements of this Agreement are satisfied.
20. Any non-compliance with any portion of this Agreement, as determined by the Department and the OAG in their sole discretion, voids the release set forth in Paragraph 19 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S. §§ 347-A(1)(A), 347-A(5), or 348, as well as the pursuit of other remedies.
21. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.

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22. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.
23. By signing and executing this Agreement, Sprague knowingly, voluntarily, intentionally, permanently, and irrevocably waives any and all defenses related to the enforcement of this Agreement, including enforcement by the Department or the OAG.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of 5 pages:

SPRAGUE OPERATING RESOURCES LLC

BY: _____ DATE: _____
PAUL E. COFF, VICE PRESIDENT

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____ DATE: _____
PRESIDING OFFICER

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____ DATE: _____
SCOTT BOAK, ASSISTANT ATTORNEY GENERAL