



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

AVERY T. DAY
ACTING COMMISSIONER

October 21, 2015

Mr. Richard Knowlton
Vice President, Operations
Maine Water Company
93 Industrial Park Road
Saco, Maine 04072
rknowlton@mainewater.com

*Transmitted via electronic mail
Delivery confirmation requested*

**RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0000035
Maine Waste Discharge License (WDL) #W002545-5S-E-M
CORRECTED ORDER**

Dear Mr. Knowlton:

Enclosed please find a copy of your **CORRECTED ORDER** for the referenced MEPDES permit and Maine WDL which was issued by the Department of Environmental Protection on October 5, 2015. Please read this corrected order and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to contact me.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

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 04679-2094
(207) 764-0477 FAX: (207) 760-3143

Letter to Maine Water Company
October 21, 2015
Page 2 of 2

Sincerely,

A handwritten signature in black ink that reads "Bill Hinkel". The signature is written in a cursive, slightly slanted style.

Bill Hinkel
Division of Water Quality Management
Bureau of Water Quality
bill.hinkel@maine.gov
ph: 207.485.2281

Enc.

cc: Stuart Rose, MDEP
Lori Mitchell, MDEP
Olga Vergara, USEPA
Marelyn Vega, USEPA
Sandy Mojica, USEPA



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner: (1) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by the Board's receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

THE MAINE WATER COMPANY)	MAINE POLLUTANT DISCHARGE
BIDDEFORD, YORK COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
DRINKING WATER TREATMENT FACILITY)	AND
#ME0000035)	WASTE DISCHARGE LICENSE
#W002545-5S-E-M)	CORRECTED ORDER
APPROVAL)	

In compliance with the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2 (amended August 25, 2013), and applicable regulations, the Department of Environmental Protection (Department) has considered the petition made by THE MAINE WATER COMPANY (MWC), and supported by the Department, for a corrected order and FINDS THE FOLLOWING FACTS:

SUMMARY OF PETITION FOR CORRECTED ORDER

On October 5, 2015, the Department issued combination Waste Discharge License (WDL) #W002545-5S-D-R/ Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0000035 to the MWC for a five-year term. On October 13, 2015, the MWC notified the Department that the October 5, 2015 permit contained a typographical error at Special Condition A. The permit incorrectly specifies the effluent limitation for total residual chlorine (TRC) is 0.15 mg/L when, in fact, the limitation should be 1.0 mg/L, as documented in the fact sheet associated with the October 5, 2015 permit.

In accordance with 06-096 CMR 2(22), the MWC and the Department seek a corrected order to correct this clerical error. Additionally, the October 5, 2015 permit contains a typographical error at ¶2 of the Application Summary by specifying that the date of the merger between the Biddeford and Saco Water Company and the MWC was December 19, 2015. The correct date is December 19, 2013.

CONCLUSIONS

Based on the findings summarized and incorporated into the attached and incorporated Fact Sheet dated October 19, 2015, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with State law.

CONCLUSIONS (cont'd)

3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
 - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).
5. The applicant has objectively demonstrated to the Department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available, as required by *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(2) for the discharge to Class A water.

ACTION

THEREFORE, the Department APPROVES the petition for a corrected order for Waste Discharge License #W002545-5S-D-R / Maine Pollutant Discharge Elimination System permit #ME0000035, issued to THE MAINE WATER COMPANY on October 5, 2015, for the monthly average discharge of 0.150 million gallons per day (MGD) of filter cleaning (backwash) wastewater from a municipal drinking water treatment plant to the Saco River, Class A, in Biddeford, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

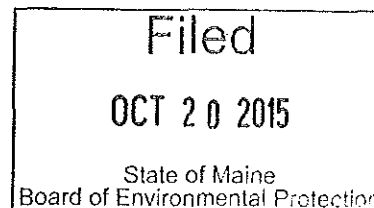
1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached to October 5, 2015 permit.
2. The attached revised permit page 4.
3. All terms and conditions in combination WDL #W002545-5S-D-R / Maine Pollutant Discharge Elimination System permit #ME0000035, dated October 5, 2015, not modified by this permitting action remain in effect and enforceable.
4. This permit and the authorization to discharge become effective upon the date of signature below and expires concurrent with the October 5, 2015 permit. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended August 25, 2013)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

DONE AND DATED AT AUGUSTA, MAINE, THIS 19th DAY OF October 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
AVERY T. DAY, Acting Commissioner



Date filed with Board of Environmental Protection _____

Date of Petition for Corrected Order: October 13, 2015
This Order prepared by Bill Hinkel, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **drinking water filter cleaning (backwash) wastewater from Outfall #001** to the Saco River. Such discharges are limited and must be monitored by the permittee as specified below⁽¹⁾:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow <i>[50050]</i>	0.150 MGD <i>[03]</i>	---	---	---	When Discharging <i>[WH/DS]</i>	Measured <i>[MS]</i>
TSS <i>[00530]</i>	20 lbs/day <i>[26]</i>	40lbs/day <i>[26]</i>	30 mg/L <i>[19]</i>	60 mg/L <i>[19]</i>	1/Week <i>[01/30]</i>	Grab <i>[GR]</i>
Settleable Solids <i>[00545]</i>	---	---	0.1 ml/L <i>[25]</i>	---	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>
Total Residual Chlorine⁽²⁾ <i>[50060]</i>	---	---	---	1.0 mg/L <i>[19]</i>	1/Week <i>[01/30]</i>	Grab <i>[GR]</i>
Total Aluminum <i>[01105]</i>	---	3.3 lbs/day <i>[26]</i>	---	5.0 mg/L <i>[19]</i>	1/Quarter <i>[01/90]</i>	Grab <i>[GR]</i>
pH <i>[00400]</i>	---	---	---	6.0 – 8.5 SU <i>[12]</i>	1/Week <i>[01/30]</i>	Grab <i>[GR]</i>

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports.

FOOTNOTES: See Page 5 of this permit for applicable footnotes.

B. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit must remain in full force and effect, and must be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
MAINE WASTE DISCHARGE LICENSE**

**CORRECTED ORDER
FACT SHEET**

DATE: **OCTOBER 19, 2015**

PERMIT NUMBER: **#ME0000035**

WASTE DISCHARGE LICENSE: **#W002545-5S-E-M**

NAME AND ADDRESS OF APPLICANT:

**THE MAINE WATER COMPANY
93 INDUSTRIAL PARK ROAD
SACO, MAINE 04072**

COUNTY: **YORK**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

**466 SOUTH STREET
BIDDEFORD, MAINE 04005**

RECEIVING WATER CLASSIFICATION: **SACO RIVER/CLASS A**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**MR. RICHARD KNOWLTON
(800) 287-1643
rknowlton@mainewater.com**

1. SUMMARY OF PETITION FOR CORRECTED ORDER

On October 5, 2015, the Department of Environmental Protection (Department) issued combination Waste Discharge License (WDL) #W002545-5S-D-R/ Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0000035 to the THE MAINE WATER COMPANY (MWC) for a five-year term. On October 13, 2015, the MWC notified the Department that the October 5, 2015 permit contained a typographical error at Special Condition A. The permit incorrectly specifies the effluent limitation for total residual chlorine (TRC) is 0.15 mg/L when, in fact, the limitation should be 1.0 mg/L, as documented in the fact sheet associated with the October 5, 2015 permit.

In accordance with 06-096 CMR 2(22), the MWC and the Department seek a corrected order to correct this clerical error. Additionally, the October 5, 2015 permit contains a typographical error at ¶2 of the Application Summary by specifying that the date of the merger between the Biddeford and Saco Water Company and the MWC was December 19, 2015. The correct date is December 19, 2013.

2.. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Total Residual Chlorine (TRC): The permittee utilizes chlorinated water for filter cleaning procedures; therefore the final effluent is expected to contain residual amounts of elemental chlorine or chlorine-based compounds. Limits on the concentration of TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or technology-based limit.

The previous permitting action established a daily maximum technology-based limit of 1.0 mg/L for TRC along with a 1/Week monitoring frequency. With a monthly average discharge flow limit of 0.150 MGD and dilution factors as determined above, end-of-pipe acute and chronic water quality-based concentration thresholds may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.019 mg/L	0.011 mg/L	260:1:1 (Mod. A) 1,891:1 (C)	5.0 mg/L	22 mg/L

The Department establishes a daily maximum BPT limitation for TRC of 1.0 mg/L for facilities that utilize elemental chlorine or chlorine-based compounds in their treatment processes. For facilities that must dechlorinate the effluent in order to consistently achieve compliance with water quality-based thresholds, the Department establishes daily maximum limit of 1.0 mg/L. The BPT-based standard of 1.0 mg/L is more stringent than the calculated acute water quality-based threshold of 5.0 mg/L. Therefore the technology-based limitation of 1.0 mg/L is being carried forward in this permitting action.

3. DEPARTMENT CONTACTS

Additional information concerning this permitting action may be obtained from:

Bill Hinkel
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 485-2281
e-mail: bill.hinkel@maine.gov