



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

August 6, 2012

VIA ELECTRONIC MAIL
Ms. Denise Buckley
US Fish & Wildlife Service
Green Lake National Fish Hatchery
One Hatchery Way
Ellsworth, ME 04605
Denise_Buckley@fws.gov

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002623
Maine Waste Discharge License (WDL) Application #W000721-5Q-F-M
Minor Revision-Green Lake National Fish Hatchery

Dear Ms. Buckley:

Enclosed please find a copy of your **final** combination MEPDES Permit/Maine WDL **minor revision** which was approved by the Department of Environmental Protection. Please read the minor revision and its attached conditions carefully. You must follow the conditions in the permit/license 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 this matter, please contact me at (207) 287-7658 or at phyllis.a.rand@maine.gov.

Sincerely,

Phyllis Arnold Rand
Division of Water Quality Management
Bureau of Land and Water Quality

cc: Matt Young, DEP/EMRO Lori Mitchell, DEP/CMRO Sandy Mojica, USEPA

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

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PRESQUE ISLE, MAINE 04679-2094
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

U.S. FISH & WILDLIFE SERVICE)	MAINE POLLUTANT DISCHARGE
GREEN LAKE NATIONAL FISH HATCHERY)	ELIMINATION SYSTEM PERMIT
ELLSWORTH, HANCOCK COUNTY, MAINE)	AND
FISH HATCHERY)	WASTE DISCHARGE LICENSE
#ME0002623)	
#W000721-5Q-F-M , APPROVAL)	MINOR REVISION

Pursuant to the provisions of Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department, MEDEP) has considered the minor revision request by the GREEN LAKE NATIONAL FISH HATCHERY (hereinafter Green Lake NFH), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

MODIFICATION REQUESTED

Green Lake NFH is requesting removal of the monitoring and reporting requirements for pH in combination MEPDES Permit/WDL#000721-5Q-E-R which was issued on September 9, 2009.

MODIFICATION REQUEST GRANTED

The Department is granting the permittee's request to remove the monitoring and reporting requirements for pH in combination MEPDES Permit/WDL#000721-5Q-E-R in order to be consistent with similar permits.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 6, 2012 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.
3. The provisions of the State's antidegradation policy, 38 MRSA Section 464(4)(F), will be met, in that:
 - (a) Existing groundwater 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 waterbody 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 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 discharge will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the minor revision of MEPDES Permit #ME0002623 / Maine WDL #W000721-5Q-E-R, issued by the Department on September 9, 2009 to the U.S FISH & WILDLIFE SERVICE-GREEN LAKE NATIONAL FISH HATCHERY to discharge a daily maximum flow of 19.4 MGD and a monthly average flow of 13.3 MGD of fish hatchery wastewater as well as 0.288 MGD of influent filter backwash wastewater, to Reed's Brook, Class B, and Graham Lake, Class GPA, 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 the 9/09/04 MEPDES Permit / Maine WDL cited above.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All other terms and conditions in the September 9, 2009 MEPDES Permit / Maine WDL not modified by this administrative modification remain in effect and enforceable.
4. This minor revision **expires on September 9, 2014**, concurrent with the 09/09/2009 MEPDES Permit / Maine WDL.

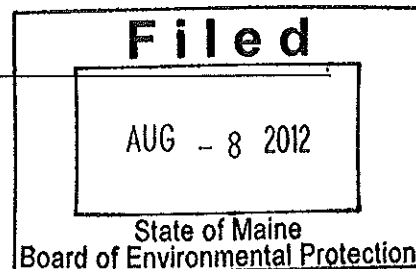
DONE AND DATED AT AUGUSTA, MAINE, THIS 7th DAY OF August, 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Keelers
For Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date filed with Board of Environmental Protection _____



Date of initial receipt of application July 18, 2012
Date of application acceptance July 30, 2012

This Order prepared by Phyllis Arnold Rand, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **fish hatchery and rearing facility wastewater from Outfall #001A** to Graham Lake. Such discharges shall be limited and monitored by the permittee as specified below. The italicized numeric values bracketed in the table below and in the text on subsequent pages are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs). Footnotes are found on Pages 5-6 of the 09/09/09 MEPDES Permit/Maine WDL.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow [50050]	13.3 MGD [03]	19.4 MGD [03]	—	—	Daily [01/01]	Measured [MS]
BOD ₅ [00310]	665 lbs/day [26]	1,618 lbs/day [26]	6 mg/L [19]	10 mg/L [19]	2 / month [02/30]	Composite ¹ [CP]
TSS [00530]	665 lbs/day [26]	1,618 lbs/day [26]	6 mg/L [19]	10 mg/L [19]	2 / month [02/30]	Composite ¹ [CP]
Total Phosphorus ² [00665]	Report total lbs/month [76]	1,426 lbs/year [50]	Report mg/L [19]	Report mg/L [19]	1 / week [01/07]	Composite ¹ [CP]
Fish on Hand [45604]	report lbs/day [26]	report lbs/day [26]	—	—	1 / week [01/07]	Calculated [CA]
Formalin ³ 1-Hour Treatment Maximum [51064]	report lbs/day [26]	46 lbs/day [26]	report mg/L [19]	46 mg/L [19]	Once per occurrence [01/OC]	Calculated [CA]
Formalin ³ 24-Hour Treatment Maximum [51064]	report lbs/day [26]	46 lbs/day [26]	report mg/L [19]	26 mg/L [19]	Once per occurrence [01/OC]	Calculated [CA]
pH [00400]	—	—	—	6.0-8.5 S.U. [12]	—	—

Revised 8/06/12

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS Footnotes (cont'd)

Sampling Locations: As GLNFH is a flow-through facility where outflow essentially equals inflow, discharge flow shall be determined through sampling inflow volumes at the water treatment plant. Effluent samples for all other parameters shall be collected at Outfall #001A after the last treatment process prior to discharge to the receiving water on a year-round basis unless otherwise noted. All monitoring shall be conducted so as to capture conditions representative of wastewater generating processes at the facility, such as flow-through and cleaning discharge flows, use of therapeutic and disinfecting/sanitizing agents, etc. and in consideration of settling pond detention times. Any change in sampling location(s) must be reviewed and approved by the Department in writing. Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000). **All effluent limits are gross, end-of-pipe limits, unless otherwise specified.**

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

1. Samples shall consist of 24-hour composites collected with an automatic composite sampler. Alternatively, when weather conditions and/or equipment prevents automatic compositing and upon approval by the Department's compliance inspector, the permittee may manually composite a minimum of four grab samples collected at two-hour intervals during the working day at the facility.
2. The 1,426 lbs/year phosphorus limit is a gross, end-of-pipe limit that entails GLNFH's modeled allowable phosphorus contribution to Graham Lake plus source background levels. GLNFH shall report the total mass of phosphorus discharged in lbs/month and lbs/year and concentration in mg/L, with the DMR for the monitoring period. Laboratory analysis shall consist of a low-level total phosphorus analysis with a minimum detection limit of 1 part per billion.

Revised 8/06/12

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS, Footnotes (cont'd)

3. Formalin monitoring shall be conducted only when in use at the facility and shall consist of a calculated effluent value. The permittee shall calculate the effluent formalin concentration through accurate determinations of the formalin mass administered in each facility use, the volume of facility wastewater to which the formalin is added during the treatment period, and the volume of large wastewater structures that receive the effluent (during 1-hour treatments). The effluent mass shall be calculated by multiplying the gallons of formalin used by a 9.13 lbs / gallon conversion formula based on the weight of formalin. The permittee shall provide this information and calculations to the Department in a document accompanying the monthly DMR. See Fact Sheet Section 6f for sample calculations. The two-tiered formalin limits correspond to a first tier standard one hour per day treatment typical of hatchery and rearing facility discharges and a second tier for up to a maximum of 24 hours of treatment and discharge for addressing emergency conditions at the facility. Concentration limits for both tiers are based on the Department's BPJ of AWQC that will be protective of aquatic life in the receiving water. **Note, formalin treatments and discharges pursuant to the second tier limits (1 hour to 24 hour discharges) must be conducted no more frequently than once every four days. The permittee shall provide a list of dates on which the second tier limits were utilized and the length of time of each such treatment, with each monthly DMR.**

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharges shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on January 23, 2009; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Additionally, the permittee is authorized to discharge influent filter backwash wastewater as described in Fact Sheet Section 2e, *Wastewater Treatment*, but is not required to monitor that discharge due to its deminimus nature. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

Revised 8/06/12

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

FACT SHEET

August 6, 2012

MEPDES PERMIT NUMBER: #ME0002623
MAINE WDL NUMBER: #W000721-5Q-F-M

NAME AND ADDRESS OF APPLICANT:

**GREEN LAKE NATIONAL FISH HATCHERY
One Hatchery Way, Route #180
Ellsworth, Maine 04605**

COUNTY: HANCOCK

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Green Lake National Fish Hatchery
One Hatchery Way, Route #180
Ellsworth, Maine 04605

RECEIVING WATER / CLASSIFICATION: Reed's Brook / Class B;
Graham Lake / Class GPA

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Denise Buckley
(207) 667-9531
Denise_Buckley@fws.gov

MODIFICATION REQUESTED

Green Lake NFH is requesting removal of the monitoring and reporting requirements for pH in combination MEPDES Permit/WDL#000721-5Q-D-M which was issued on September 9, 2009.

MODIFICATION REQUEST GRANTED

The Department is granting the permittee's request to remove the monitoring and reporting requirements for pH in combination MEPDES Permit/WDL#000721-5Q-D-M in order to be consistent with similar permits.



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.
