



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PAUL MERCER
COMMISSIONER

April 5, 2017

Mr. Sid Hazelton P.E.
Superintendent
Auburn Sewerage District
268 Court Street
Auburn, Maine 04210
shazelton@AWD.org

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100005
Maine Waste Discharge License Application #W000685-5T-H-M
Auburn Sewerage District
Minor Revision

Dear Mr. Hazelton:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **minor revision** which was approved by the Department of Environmental Protection. Please read this permit/license renewal and its attached conditions carefully. Compliance with this permit/license will protect water quality.

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 call me at 207-7693.

Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions. Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Gregg Wood
Bureau of Water Quality
Division of Water Quality Management

cc: Stuart Rose, DEP/SMRO
Lori Mitchell, DEP/CMRO

Michael Riley, DEP/CMRO
Sandy Mojica, USEPA

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

BANGOR
106 HOGAN ROAD, SUITE 6
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

AUBURN SEWERAGE DISTRICT) MAINE POLLUTANT DISCHARGE
AUBURN, ANDROSCOGGIN COUNTY, ME.) ELIMINATION SYSTEM PERMIT
COMBINED SEWER OVERFLOWS) AND
W000685-5T-H-M) WASTE DISCHARGE LICENSE
ME0100005) **APPROVAL**) **MINOR REVISION**

In compliance with the provisions of the Federal Water Pollution Control Act, Title 33 U.S.C. § 1251, Conditions of licenses, 38 M.R.S. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered a request by the Auburn Sewerage District (ASD) to modify Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100005/Maine Waste Discharge License (WDL) #W000685-5T-G-R (permit) issued by the Department on September 22, 2016, for a five-year term. With its supportive data, agency review comments, and other related materials on file the Department FINDS THE FOLLOWING FACTS:

MODIFICATION REQUESTED

The ASD has requested the Department incorporate Combined Sewer Overflow (CSO) Outfall #005, Miller Street, into the MEPDES as it continues to be an active CSO outfall due to poor hydraulics. CSO Outfall #005 was permitted in the November 18, 2010, MEPDES permit but removed upon issuance of the September 22, 2016, permit as it was thought to be eliminated at that point in time. The ASD is considering several options for improving the system such as flow monitoring to identify sources of inflow and the possibility of relocating the upstream collector lines to bypass the CSO structure in order to eliminate the CSO permanently. Until permanently eliminated, the CSO is capable of discharging.

MODIFICATION GRANTED OR DENIED

The request by the ASD is acceptable to the Department. Special Condition A(1), *Conditions For Combined Sewer Overflows (CSO)*, of the permit is being modified to reincorporate Outfall #005, Miller Street, as a CSO discharge outfall and Special Condition A(4) is being modified to establish September 31, 2017, as a milestone for the ASD to submit a written plan that includes a scope of work and schedule to permanently eliminate Outfall #005 as a CSO discharge point.

CONCLUSIONS

BASED on the findings on page 1 of this minor revision, 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 M.R.S. §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 national resource, that water quality will be maintained and protected;
 - (c) 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 Maine law, 38 M.R.S. §414-A(1)(D) and 414-A(1-B).

ACTION

THEREFORE, the Department APPROVES the above request by the AUBURN SEWERAGE DISTRICT to modify MEPDES permit #ME0100005/WDL #W000685-5T-G-R to incorporate CSO Outfall #005, Miller Street, into the permit, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

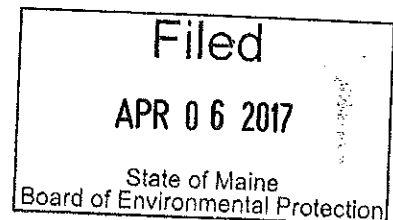
1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits," revised July 1, 2002, copy attached to MEPDES permit #ME0100005/WDL #W000685-5T-G-R, issued by the Department on September 22, 2016, for a five-year term.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions in MEPDES permit #ME0100005/WDL #W000685-5T-G-R, issued by the Department on September 22, 2016, for a five-year term, not modified by this minor revision remain in effect and enforceable.
4. This permit becomes effective upon the date of signature below and expires at midnight on September 22, 2021, concurrent with MEPDES permit #ME0100005/WDL #W000685-5T-G-R, issued by the Department on September 22, 2016. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. *Maine Administrative Procedure and Services*, 5 M.R.S. § 10002 and Rules Concerning the *Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended October 19, 2015).

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 6th DAY OF April 2017.
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kulrus
for Paul Mercer, COMMISSIONER

Date of initial receipt of application March 28, 2017
Date of application acceptance March 31, 2017



Date filed with Board of Environmental Protection _____.

This Order prepared by Gregg Wood, Bureau of Water Quality

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO)

1. Pursuant to Chapter 570 of Department Rules (Combined Sewer Overflow Abatement), the permittee is authorized to discharge combined storm water and sanitary waste water from the following CSO subject to the conditions and requirements contained herein:

<u>Outfall #</u>	<u>Location</u>	<u>Receiving Water & Class</u>
001	Riverside Drive	Androscoggin River Class C
005	Miller Street	Androscoggin River, Class C

2. Prohibited Discharges
 - a) The discharge of dry weather flows is prohibited. All such discharges shall be reported to the Department in accordance with Standard Condition D (1) of this permit.
 - b) No discharge shall occur as a result of mechanical failure, improper design or inadequate operation or maintenance.
 - c) No discharges shall occur at flow rates below the maximum design capacity of the wastewater treatment facility, pumping stations or sewerage system.
3. Narrative Effluent Limitations
 - a) The effluent shall not contain visible oil sheen, settled substances, foam, or floating solids at any time that impair the characteristics and designated uses ascribed to the classification of the receiving waters.
 - b) The effluent shall not contain materials in concentrations or combinations that are hazardous or toxic to aquatic life; or which would impair the usage designated by the classification of the receiving waters.
 - c) The discharge shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.
 - d) Notwithstanding specific conditions of this permit, the effluent by itself or in combination with other discharges shall 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.

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO) (cont'd)

4. CSO Long Term Control Plan (see Sections 2 & 3 of Chapter 570 Department Rules)

The permittee shall continue to work with the Lewiston-Auburn Water Pollution Control Authority (LAWPCA) to implement CSO control projects in accordance with the most currently approved CSO Master Plan and implementation schedule in a document entitled City of Lewiston, Maine, Auburn Sewerage District, and Lewiston Auburn Water Pollution Control Authority (LAWPCA), Clean Water Act Master Plan Fifteen Year Update, November 2015.

By September 30, 2017, (ICIS Code CS011) the permittee shall submit to the Department for review and approval, a written plan that includes a scope of work and schedule to permanently eliminate Outfall #005 as a CSO discharge point.

By December 31, 2019, (ICIS Code 81699) the permittee shall submit to the Department for review and approval an Updated CSO Master Plan and implementation schedule.

To modify the dates and or projects specified above (but not dates in the Master Plan), the permittee must file an application with the Department to formally modify this permit. The work items identified in the abatement schedule may be amended from time to time based upon approval by the Department. The permittee must notify the Department in writing prior to any proposed changes to the implementation schedule.

5. Nine Minimum Controls (NMC) (see Section 5 Chapter 570 of Department Rules)

The permittee shall implement and follow the Nine Minimum Control documentation. Work performed on the Nine Minimum Controls during the year shall be included in the annual CSO Progress Report (see below).

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO) (cont'd)

6. CSO Compliance Monitoring Program (see Section 6 Chapter 570 of Department Rules)
The permittee shall conduct flow monitoring according to a Department approved *Compliance Monitoring Program* on all outfalls, as part of the CSO Master Plan.

Results shall be submitted annually as part of the annual *CSO Progress Report* (see below), and shall include annual precipitation, and actual CSO volumes. Any abnormalities during CSO monitoring shall also be reported. The results shall be reported to the Department on form "*CSO Activity and Volumes*" (**Attachment A** of MEPDES permit #ME0100005/WDL #W000685-5T-G-R, issued by the Department on September 22, 2016) or similar format and submitted to the Department in electronic format. CSO control projects that have been completed shall be monitored for volume and frequency of overflow to determine the effectiveness of the project toward CSO abatement. This requirement shall not apply to those areas where complete separation has been completed and CSO outfalls have been eliminated.

7. Annual CSO Progress Reports (see Section 7 of Chapter 570 of Department Rules)

By March 1 of each year, (ICIS Code CSO10) the permittee shall submit *CSO Progress Reports* covering the previous calendar year (January 1 to December 31). The CSO Progress Report shall include, but is not necessarily limited to, the following topics as further described in Chapter 570: CSO abatement projects, schedule comparison, progress on inflow sources, costs, flow monitoring results, CSO activity and volumes, nine minimum controls update, sewer extensions, and new commercial or industrial flows.

The CSO Progress Reports shall be completed on a standard form entitled "Annual CSO Progress Report", furnished by the Department, and submitted in electronic form, if possible, to the following address:

CSO Coordinator
Department of Environmental Protection
Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333
e-mail: CSOCoordinator@maine.gov

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO) (cont'd)

8. Signs

The permittee shall maintain an identification sign at the CSO location as notification to the public that intermittent discharges of untreated sanitary wastewater occur. The sign must be located at or near the outfall and be easily readable by the public. The sign shall be a minimum of 12" x 18" in size with white lettering against a green background and shall contain the following information:

**AUBURN SEWERAGE DISTRICT
WET WEATHER
SEWAGE DISCHARGE
OUTFALL NAME AND NUMBER**

9. Definitions

For the purposes of this permit, the following terms are defined as follows:

- a. Combined Sewer Overflow - a discharge of excess waste water from a municipal or quasi-municipal sewerage system that conveys both sanitary wastes and storm water in a single pipe system and that is in direct response to a storm event or snowmelt.
- b. Dry Weather Flows - flow in a sewerage system that occurs as a result of non-storm events or are caused solely by ground water infiltration.
- c. Wet Weather Flows - flow in a sewerage system that occurs as a direct result of a storm event, or snowmelt in combination with dry weather flows.



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.
