



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Darryl Brown
COMMISSIONER

March 9, 2011

Mr. Brian Tarbuck
Greater Augusta Utility District
12 Williams Street
Augusta, Maine 04330

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100013
Maine Waste Discharge License (WDL) Application # W002695-5M-J-M
Minor Revision

Dear Mr. Tarbuck:

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 the minor revision 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 call me at (207) 287-7693 or contact me via email at gregg.wood@maine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Wood'.

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc./cc: James Crowley, David Breau, Lori Mitchell (MEDEP); Sandy Mojica (USEPA)



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

DEPARTMENT ORDER

IN THE MATTER OF

GREATER AUGUSTA UTILITY DISTRICT)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS)	ELIMINATION SYSTEM PERMIT
AUGUSTA, KENNEBEC COUNTY, MAINE)	AND
ME0100013)	WASTE DISCHARGE LICENSE
W002695-5M-J-M)	MINOR REVISION
		APPROVAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection is considering a request by the GREATER AUGUSTA UTILITY DISTRICT (permittee hereinafter) to modify combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100013/Maine Waste Discharge License (WDL) #W002685-5M-I-R (permit hereinafter), issued to the permittee on September 18, 2008. With its supportive data, agency review comments, and other related material on file, the Department finds the following facts:

MODIFICATIONS REQUESTED

The permittee has requested a modification of the compliance dates in Special Condition K, *Combined Sewer Overflows (CSOs)*, of the September 18, 2008, permit. In a letter dated February 1, 2011, the permittee requested to extend the deadline for the completion date for the Phase III project (construction of the Bond Brook Subarea Catchment) from December 1, 2010, to December 31, 2012, and extend the deadline for the submission of an updated CSO Master Plan to the Department from December 31, 2011, to June 1, 2014. The permittee has indicated that circumstances outside of their control have led to delays in completion of said projects.

MODIFICATION SUMMARY

The Department is hereby granting said request to advance the deadline for completion of the Phase III project from December 1, 2010, to December 31, 2012, but can only advance the deadline for submission of the updated CSO Master Plan to September 18, 2013, to stay within the five-year term of the permit.

CONCLUSIONS

BASED on the aforementioned findings 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 MRS Section 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. 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 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 (including the 22 CSOs) will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the action to modify MEPDES permit #ME0100013/WDL #W002695-5M-I-R, issued to the GREATER AUGUSTA UTILITY DISTRICT on September 18, 2008, to establish new compliance deadlines in Special Condition K, *Combined Sewer Overflows (CSOs)*, 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 #ME0100013/WDL #W002695-5M-I-R, issued on September 18, 2008.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions of MEPDES permit #ME0100013/WDL #W002695-5M-I-R, not modified by this permitting action remain in effect and enforceable.
4. This minor revision becomes effective on the date of signature below and expires on September 18, 2013, concurrent with MEPDES permit #ME0100013/WDL #W002695-5M-I-R.

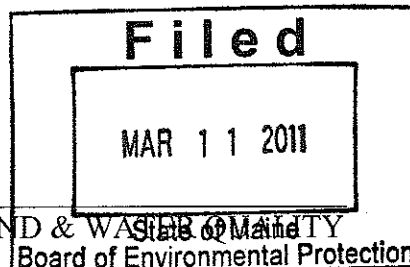
DONE AND DATED AT AUGUSTA, MAINE, THIS 9th DAY OF March, 2011.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: *Darryl Brown*
Darryl Brown, COMMISSIONER

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application March 8, 2011
Date of application acceptance March 8, 2011



Date filed with Board of Environmental Protection _____

This Order prepared by Gregg Wood, BUREAU OF LAND & WASTE
ME0100013 MR2011 3/9/11

SPECIAL CONDITIONS

K. COMBINED SEWER OVERFLOWS (CSOs)

3. Narrative Effluent Limitations

- a) The effluent shall not contain a 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 impart color, turbidity, toxicity, radioactivity or other properties that cause the receiving waters to be unsuitable for the designated uses and other characteristics ascribed to their class.
- a) 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.

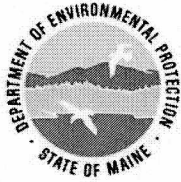
4. CSO Long Term Control / Master Plan (see Sections 2 & 3 of Chapter 570 Department Rules)

The permittee shall implement CSO control projects in accordance with the most recently approved CSO Master Plan entitled, "2006 Long Term Control Plan Update", dated December 2006, prepared by Earth Tech, Inc., and the revised pages dated August 31, 2007 and September 19, 2007. The permittee shall:

On or before December 31, 2012, [PCS Code 04599] the permittee shall complete the project referred to as Phase III – Construction of the Bond Brook Subarea Abatement. This project as currently proposed will provide consolidation and storage of wet weather flows in the Bond Brook Subarea and abatement of CSO flows.

On or before September 18, 2013, [PCS Code 06699] the permittee shall submit to the Department for review and approval a Long Term Control Plan (Master Plan) 5-year Update analyzing the effectiveness of the abatement projects to date and reaffirming the Phase IV projects and schedule.

The District is continuing to evaluate these milestones and dates and may need to reopen and modify the Permit accordingly (Special Condition Q).



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

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. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days 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 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 and the applicant a copy of the documents. All 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

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by 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 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 as part of an appeal only when 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 show 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, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information 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.* An applicant proceeding with a project pending the outcome of an appeal 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 initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final 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. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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.
