



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PATRICIA W. AHO
COMMISSIONER

January 9, 2012

VIA ELECTRONIC MAIL

Mr. Jeffrey Grossman, Town Manager
Town of Islesboro
Dark Harbor Wastewater Treatment Facility
P.O. Box 76
Islesboro, ME 04848-0076
manager@midcoast.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100269
Maine Waste Discharge License (WDL) Application #W002726-6B-F-M
Minor Revision – Town of Islesboro Dark Harbor Wastewater Facility

Dear Mr. Grossman:

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 carefully as 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*" in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision*."

If you have any questions regarding this matter, please feel free to contact me at (207) 287-7658 or via email at: phyllis.a.rand@maine.gov.

Sincerely,

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

Enclosure

Cc: Denise Fournier Behr, DEP/CMRO Sandy Mojica, EPA



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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF ISLESBORO) MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS) ELIMINATION SYSTEM PERMIT
ISLESBORO, WALDO COUNTY) AND
ME0100269) WASTE DISCHARGE LICENSE
W002726-6B-F-M APPROVAL) MINOR REVISION

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 (Department hereinafter) has considered a request by the TOWN OF ISLESBORO ("permittee," hereinafter), to modify its Maine Pollutant Discharge Elimination System (MEPDES) permit # ME0100269/ Maine Waste Discharge License (WDL) # W002726-6B-E-R, with its supportive data, agency review comments, and other related material on file and finds the following facts:

PERMIT SUMMARY

The Department is initiating the modification of combination Maine Pollutant Discharge Elimination System (MEPDES) permit # ME0100269/ Maine Waste Discharge License (WDL) # W002726-6B-E-R, (permit hereinafter) which was issued on January 20, 2011, and is due to expire on January 20, 2016. The permit authorized the monthly average discharge of up to 0.0637 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) to the Atlantic Ocean at East Penobscot Bay, Class SB, in Islesboro, Maine. A project to redesign and install a replacement outfall pipe was slated for completion on May 31, 2011.

MINOR REVISION SUMMARY

This minor revision is being issued in order to modify the permittee's current disinfection requirement, which was originally based on a May 31, 2011 completion date of the permittee's outfall pipe installation and replacement project.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 5, 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 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 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.

ACTION

THEREFORE, the Department APPROVES the minor revision of combination MEPDES permit # ME0100269/ Maine Waste Discharge License (WDL) # W002726-6B-E-R to the TOWN OF ISLESBORO 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 combination MEPDES permit # ME0100269/ WDL # W002726-6B-E-R, issued on January 20, 2011.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All other terms and conditions of combination MEPDES permit # ME0100269/ WDL # W002726-6B-E-R, issued on January 20, 2011 not modified by this minor revision remain in effect and enforceable.
4. This permit expires on January 20, 2016, concurrent with combination MEPDES permit # ME0100269/ WDL # W002726-6B-E-R, issued on January 20, 2011.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: January 6, 2012
Date of application acceptance: January 6, 2012

This Order prepared by PHYLLIS ARNOLD RAND, BUREAU OF LAND & WATER QUALITY

ME0100269 MR 2012

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of this permit, the permittee is authorized to discharge **secondary treated sanitary wastewater from Outfall #001A** to the Atlantic Ocean at East Penobscot Bay. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Minimum	
							Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
	as specified	as specified	as specified	as specified	as specified	as specified	as specified	as specified
Flow [50050]	0.0637 MGD [03]	--	Report MGD [03]	--	--	--	3/Week [03/07]	Metered [MT]
BOD₅ [00310]	16 lbs/day [26]	24 lbs/day [26]	27 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
BOD₅ Percent Removal⁽¹⁾ [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
TSS [00530]	16 lbs/day [26]	24 lbs/day [26]	27 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
TSS Percent Removal⁽¹⁾ [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Fecal Coliform Bacteria May 15 – September 30 [31616]	--	--	--	15/100 mL ⁽³⁾ [13]	--	50/100 mL [13]	2/Month ⁽²⁾ [02/30]	Grab [GR]
Total Residual Chlorine [50060]	--	--	--	0.1 mg/L [19]	--	0.28 mg/L [19]	3/Week ⁽⁴⁾ [03/07]	Grab [GR]
pH [00400]	--	--	--	--	--	6.0 – 9.0 SU [12]	1/Week [01/07]	Grab [GR]

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.

Revised January 6, 2012

SPECIAL CONDITIONS

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

FOOTNOTES:

Monitoring –All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics.

Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 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 Human Services for wastewater. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10-144 CMR 263.

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 detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit. See **Attachment A** of this permit for a list of the Department's RLs.

1. **Percent Removal** – For secondary treated waste waters, the facility shall maintain a minimum of 85 percent removal of both BOD₅ and TSS. The percent removal shall be calculated based on assumed BOD₅ and TSS influent values of 287 mg/L and actual effluent concentration values.
2. **Bacteria Limits** – Fecal coliform bacteria limits and monitoring requirements are seasonal and apply between May 15 – September 30. Measurement frequency begins June 1, 2011. The Department reserves the right to require year-round disinfection to protect the health, safety and welfare of the public.
3. **Bacteria Reporting** – The monthly average fecal coliform bacteria limitation is a geometric mean limitation and sample results shall be calculated and reported as such.
4. **TRC Monitoring** – Measurement frequency begins May 15, 2012. Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. Limitations are in effect until completion of the outfall pipe replacement project and subsequent re-evaluation of dilution factors. The permittee shall utilize approved test methods that are capable of bracketing the limitations of 0.1 mg/L and 0.28 mg/L where applicable. For instances when the chlorine or chlorine-based compounds have not been used for effluent disinfection for an entire reporting period, the permittee shall report "N-9" on the monthly electronic Discharge Monitoring Report (eDMR).

Revised January 6, 2012

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

FACT SHEET

January 6, 2012

MEPDES PERMIT: **ME0100269**
WASTE DISCHARGE LICENSE: **W002726-6B-F-M**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF ISLESBORO
P.O. BOX 76
ISLESBORO, ME 04848-0076**

COUNTY: **Waldo**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**DARK HARBOR WASTEWATER TREATMENT FACILITY
524 PENDLETON POINT ROAD
ISLESBORO, ME 04848-0076**

RECEIVING WATER / CLASSIFICATION: **Atlantic Ocean at East Penobscot Bay/Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Jeffrey A. Grossman, Town Manager**
(207) 734-2253
manager@midcoast.com

CONTRACT OPERATOR: **Jon Carman, Grade V-B Operator (Maine)**
J.M.C. Wastewater
(207) 948-2422
joncarman@uninet.net

1. PERMIT SUMMARY

The Department is initiating the modification of combination Maine Pollutant Discharge Elimination System (MEPDES) permit # ME0100269/ Maine Waste Discharge License (WDL) # W002726-6B-E-R, (permit hereinafter) which was issued on January 20, 2011, and is due to expire on January 20, 2016. The permit authorized the monthly average discharge of up to 0.0637 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) to the Atlantic Ocean at East Penobscot Bay, Class SB, in Islesboro, Maine. A project to redesign and install a replacement outfall pipe was slated for completion on May 31, 2011.

2. MINOR REVISION SUMMARY

This minor revision is being issued in order to modify the permittee's current disinfection requirement, which was originally based on a May 31, 2011 completion date of the permittee's outfall pipe installation and replacement project.

3. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Section 6, *Effluent Limitations and Monitoring Requirements*, §f of the Fact Sheet of the 01/20/11 permit contained the following italicized text:

- f. *Total Residual Chlorine (TRC): Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT is being applied to the discharge. Department licensing/permitting actions impose the more stringent of either a water quality-based or BPT limit. This permitting action is revising the end-of-pipe (EOP) water quality-based concentration thresholds based on new dilution factors listed in section 6(b) of this Fact Sheet for the permittee.*

<i>Acute (A) Criterion</i>	<i>Chronic (C) Criterion</i>	<i>A & C Dilution Factors</i>	<i>Calculated</i>	
			<i>Acute Threshold</i>	<i>Chronic Threshold</i>
0.013 mg/L	0.0075 mg/L	21.8:1 (A) 248.6:1 (C)	0.28 mg/L	1.86 mg/L

Example calculation, acute: (0.013)(21.8) = 0.28 mg/L

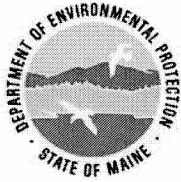
The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that must dechlorinate the effluent in order to consistently achieve compliance with water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. The daily maximum water quality-based limit of 0.28 mg/L calculated above is more stringent than the BPT-based limit of 0.3 mg/L and is therefore being established in this permitting action. This permitting action is establishing a monthly average BPT based TRC limit of 0.1 mg/L. This permitting action is carrying forward the TRC minimum monitoring frequency requirement of three times per week (3/Week). The TRC measurement frequency commences on May 15, 2012, which reflects completion of the outfall pipe replacement project.

Upon completion of the outfall repair/extension and a subsequent review of revised dilution factors associated with the extension, the TRC limitation may be revised per Special Condition K, "Reopening of Permit for Modifications."

4. DEPARTMENT CONTACTS

Additional information concerning this permitting action may be obtained from, and written comments sent to:

Phyllis A. Rand
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7658 Fax: (207) 287-3435
e-mail: phyllis.a.rand@maine.gov



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.
