



STATE OF MAINE  
Department of Environmental Protection

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

October 3, 2011

Mr. Dan Bolduc  
Town of Oakland  
P.O. Box 187  
Oakland, Maine 04963

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100463  
Maine Waste Discharge License (WDL) Application # W-002690-6C-E-M  
**Minor Revision – Extension of Schedule of Compliance for Elimination of Discharge**

Dear Dan:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL Permit Minor Revision, which was approved by the Department of Environmental Protection. Please read the revision, current permit/license, and the 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 Tim MacMillan, your MEDEP Project Engineer, at (207) 287-7765 or [tim.a.macmillan@maine.gov](mailto:tim.a.macmillan@maine.gov), or me at (207) 215-1579 or [robert.d.stratton@maine.gov](mailto:robert.d.stratton@maine.gov).

Sincerely,

Robert D. Stratton  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

pc: Peter Nielson (Oakland); Tim MacMillan, Denise Behr, Lori Mitchell (MEDEP);  
Sandy Mojica (USEPA); Jim Fitch, Kyle Coolidge (Woodard & Curran, Inc.)

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 624-6550 FAX: (207) 624-6024  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD  
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 04769-2094  
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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION  
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF OAKLAND	)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS	)	ELIMINATION SYSTEM PERMIT
OAKLAND, KENNEBEC COUNTY, MAINE	)	AND
#ME0100463	)	WASTE DISCHARGE LICENSE
#W-002690-6C-E-M	)	<b>MINOR REVISION</b>
<b>APPROVAL</b>		

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 modification request by the TOWN OF OAKLAND (hereinafter Oakland), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**MINOR REVISION REQUESTED**

The Town of Oakland has requested an extension of the Schedule of Compliance established in its 2009 Maine Pollutant Discharge Elimination System (MEPDES) Permit / Maine Waste Discharge License (WDL) that provided for elimination of the facility's wastewater discharge to the Rice Rips Impoundment (Class GPA water) on Messalonskee Stream (Class C water) in Oakland, Maine, and expiration of its MEPDES Permit / Maine WDL. The requested extension is necessitated by project and equipment delivery delays. In this Minor Revision, the Department is revising compliance dates established in Permit Special Condition M.2, *Schedule of Compliance, Elimination of Discharge*, of MEPDES Permit #ME0100463 / Maine WDL #W002690-6C-D-R, issued by the Department on August 10, 2009. This action is being taken pursuant to Permit Special Condition N, which follows.

**N. REOPENING OF PERMIT FOR MODIFICATIONS**

*Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to; 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional effluent and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information including, but not limited to, new information from ambient water quality studies of the receiving water.*

## **MINOR REVISION SUMMARY**

This permit revision modifies the MEPDES Permit / Maine WDL requirements as follows:

1. revises the Schedule of Compliance for elimination of the discharge to the Rice Rips impoundment and expiration of the MEPDES Permit / Maine WDL.

## **CONCLUSIONS**

BASED on the findings in the attached Draft Minor Revision Fact Sheet dated September 23, 2011 and revised September 27, 2011, 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 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 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 #ME0100463 / Maine WDL #W002690-6C-D-R, issued by the Department on August 10, 2009, to the TOWN OF OAKLAND to discharge up to a monthly average flow of 0.48 MGD of secondary treated sanitary wastewater from a publicly owned treatment works to the Rice Rips impoundment (Class GPA) on Messalonskee Stream (Class C) in Oakland, Maine, SUBJECT TO THE FOLLOWING 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 08/10/09 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 08/10/09 MEPDES Permit / Maine WDL not modified by this Minor Revision remain in effect and enforceable.
4. This minor revision expires concurrent with the MEPDES Permit / Maine WDL, on **February 1, 2012.**

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

This Order prepared by Robert D. Stratton, BUREAU OF LAND & WATER QUALITY

## REVISED PERMIT SPECIAL CONDITIONS

### M. SCHEDULE OF COMPLIANCE (cont'd):

#### 2. **Elimination of Discharge.**

Pursuant to Maine Law, 38 MRSA, Section 465-A.1.C, and based upon the identification of a practical alternative to its discharge, Oakland must remove its direct wastewater discharge to the Rice Rips impoundment of Messalonskee Stream, Class GPA, according to the following schedule of compliance.

- a. **On or before June 30, 2010**, the permittee shall substantially complete construction of the Webb Road gravity sewer interceptor. *[PCS code 09199]*
- b. **On or before February 1, 2012**, the permittee shall substantially complete construction and installation of the pump station and force main from Oakland to Waterville. *[PCS code 09199]*  
On or before this same date, the permittee shall route all wastewater flows from Oakland to Waterville and shall eliminate the permittee's wastewater discharge to the Rice Rips impoundment. *[PCS code 05199]*
- c. **On February 1, 2012**, MEPDES Permit #ME0100463 / Maine WDL #W-002690-6C-D-R, authorizing the Town of Oakland's wastewater discharge to the Rice Rips impoundment, shall expire.

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

**DRAFT PERMIT MINOR REVISION FACT SHEET**

Date: September 23, 2011  
Revised: September 27, 2011

MEPDES PERMIT NUMBER: #ME0100463  
MAINE WDL NUMBER: #W-002690-6C-E-M

NAME AND MAILING ADDRESS OF APPLICANT:

**TOWN OF OAKLAND  
P.O. Box 187  
Oakland, Maine 04963**

COUNTY:               Kennebec

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

**Oakland Wastewater Treatment Plant  
41 Municipal Drive  
Oakland, Maine**

RECEIVING WATER/CLASSIFICATION: Rice Rips impoundment (Class GPA) on Messalonskee Stream (Class C)

COGNIZANT OFFICIAL AND CONTACT INFORMATION:   Mr. Daniel Bolduc  
(207) 465-7198; dbolduc@oaklandmaine.com

**1. MINOR REVISION REQUESTED**

- a. Application: The Town of Oakland has requested an extension of the Schedule of Compliance established in its 2009 Maine Pollutant Discharge Elimination System (MEPDES) Permit / Maine Waste Discharge License (WDL) that provided for elimination of the facility's wastewater discharge to the Rice Rips Impoundment (Class GPA water) on Messalonskee Stream (Class C water) in Oakland, Maine, and expiration of its MEPDES Permit / Maine WDL. The requested extension is necessitated by project and equipment delivery delays. In this Minor Revision, the Department is revising compliance dates established in Permit Special Condition M.2, *Schedule of Compliance, Elimination of Discharge*, of MEPDES Permit #ME0100463 / Maine WDL #W002690-6C-D-R, issued by the Department on August 10, 2009. This action is being taken pursuant to Permit Special Condition N, which follows.

## **1. MINOR REVISION REQUESTED (cont'd)**

### ***N. REOPENING OF PERMIT FOR MODIFICATIONS***

*Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to; 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional effluent and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information including, but not limited to, new information from ambient water quality studies of the receiving water.*

## **2. MINOR REVISION SUMMARY**

This permit revision modifies the MEPDES Permit / Maine WDL requirements as follows:

- a. revises the Schedule of Compliance for elimination of the discharge to the Rice Rips impoundment and expiration of the MEPDES Permit / Maine WDL.

## **3. BASIS FOR MINOR REVISION**

MEPDES Permit #ME0100463 / Maine WDL #W002690-6C-D-R, issued by the Department on August 10, 2009, establishes the authority, effluent limitations, and monitoring requirements for the Town of Oakland to continue its discharge of secondary treated sanitary wastewater to the Rice Rips impoundment on Messalonskee Stream until October 31, 2011, with expiration of the MEPDES Permit / Maine WDL on December 1, 2011. On September 12, 2011, Oakland contacted the Department and requested a permit extension. Oakland stated that it is in the final phase of the project and that the Oakland sewer hookup to Waterville will be completed during the winter of 2011. The contractor's proposal calls for project completion by late December 2011. Oakland stated that its progress was hindered by an extensive period of value engineering to lower project costs to within budget and, though the contractor is onsite, they are currently waiting for delivery of equipment necessary to the project.

The Department's project engineer has been working closely with Oakland and confirms both the necessity of a brief schedule extension and the ability to eliminate the discharge to the Rice Rips Impoundment and retire the MEPDES Permit / Maine WDL by February 1, 2012. In this Minor Revision, the Department is revising compliance dates established in Permit Special Condition M.2, *Schedule of Compliance, Elimination of Discharge*, of MEPDES Permit #ME0100463 / Maine WDL #W002690-6C-D-R, issued by the Department on August 10, 2009, pursuant to Permit Special Condition N. All other terms and conditions in the 08/10/09 MEPDES Permit / Maine WDL not modified by this Permit Revision remain in effect and enforceable and must be complied with.

#### **4. DEPARTMENT CONTACTS**

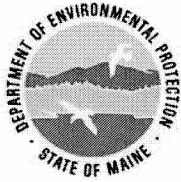
Additional information concerning this minor revision may be obtained from and written comments should be sent to:

Robert D. Stratton  
Division of Water Quality Management  
Bureau of Land and Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017

Telephone: (207) 215-1579  
Fax: (207) 287-3435  
email: [Robert.D.Stratton@maine.gov](mailto:Robert.D.Stratton@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.

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**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.**

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