



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

December 5, 2011

Robert Wilpan  
Town of Sorrento  
Board of Selectmen  
79 Pomala Avenue  
Sorrento, Maine 04677-3126  
[sorr\\_tn\\_clement@yahoo.com](mailto:sorr_tn_clement@yahoo.com)

*Sent via electronic mail  
Delivery confirmation requested*

**RE: Maine Waste Discharge License (WDL) Minor Revision #W002280-6A-D-M  
Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102130  
Finalized Minor Permit Revision**

Dear Mr. Wilpan:

Enclosed, please find a copy of your **final** MEPDES permit minor revision as requested, which was approved by the Department of Environmental Protection. Please read the minor permit/license 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.*"

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
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PRESQUE ISLE, MAINE 04679-2094  
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Letter to R. Wilpan  
December 5, 2011  
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If you have any questions regarding the matter, please feel free to call me.

Sincerely,

A handwritten signature in blue ink that reads "Bill Hinkel". The signature is written in a cursive, slightly slanted style.

Bill Hinkel  
Division of Water Quality Management  
Bureau of Land and Water Quality  
[bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov)  
ph: 207.485.2281

Enc.

ec: Annaleis Hafford, P.E. Olver Associates  
Clarissa Trasko, MeDEP  
Lori Mitchell, MeDEP  
Sandy Mojica, USEPA  
File W2280



DEPARTMENT ORDER

IN THE MATTER OF

|                                 |   |                           |
|---------------------------------|---|---------------------------|
| TOWN OF SORRENTO                | ) | MAINE POLLUTANT DISCHARGE |
| SORRENTO, HANCOCK COUNTY, MAINE | ) | ELIMINATION SYSTEM PERMIT |
| PUBLICLY OWNED TREATMENT WORKS  | ) | AND                       |
| #ME0102130                      | ) | WASTE DISCHARGE LICENSE   |
| #W002280-6A-D-M                 | ) | MINOR REVISION            |
| APPROVAL                        | ) |                           |

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered an October 25, 2011 request submitted by the TOWN OF SORRENTO (Town or permittee) to the Department for a minor permit revision to Waste Discharge License (WDL) #W002280-6A-C-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102130, which was issued to the Town on September 6, 2011 for a five-year term. With its supportive data, agency review comments, and other related materials on file and finds the following facts:

**APPROVED MINOR PERMIT REVISION SUMMARY**

The Town has requested to revise the minimum monitoring frequency requirement for biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), settleable solids, and pH from once per calendar quarter in the months of March, June, September, and December, which was established in Special Condition A, *Effluent Limitations and Monitoring Requirements*, of the September 6, 2011 permit, to monthly during the period of May through September of each year. The permittee requested this revision due to safety concerns related to obtaining effluent samples during winter and early spring and due to the very low effluent levels of these pollutants that are anticipated during this time of the year when most customer connections are not active.

This minor revision modifies and replaces pages 1 through 5 of the September 6, 2011 permit.

**CONCLUSIONS**

BASED on the findings summarized in the attached Fact Sheet dated December 5, 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 M.R.S.A. §464(4)(F), will be met, in that existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected.

4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

## **ACTION**

THEREFORE, the Department hereby APPROVES the above noted request of the TOWN OF SORRENTO for the MINOR REVISION (revision of the minimum monitoring frequency requirements for biochemical oxygen demand, total suspended solids, settleable solids, and pH to once per month during the period of May 1 through September 30, inclusive, of each year) to Waste Discharge License #W002280-6A-C-R / Maine Pollutant Discharge Elimination System permit #ME0102130, which was issued to the Town on September 6, 2011, 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 September 6, 2011 permit.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions in combination WDL # W002280-6A-C-R / MEPDES permit #ME0102130, dated September 6, 2011, not modified by this permitting action remain in effect and enforceable.
4. This minor permit revision expires on September 6, 2016, concurrent with the September 6, 2011 WDL / MEPDES permit. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the September 6, 2011 permit, the terms and conditions of the September 6, 2011 permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

Date of minor revision request: October 25, 2011  
Date of minor revision acceptance: October 25, 2011

## SPECIAL CONDITIONS

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **secondary treated sanitary wastewater via Outfall #001A** to the Atlantic Ocean at Back Cove in Sorrento, Maine. Such discharges shall be limited and monitored by the permittee as specified below<sup>(1)</sup>:

| 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        |
| <b>Flow</b><br><i>[50050]</i>   | --                          | --                          | 3,420 GPD<br><i>[07]</i>    | --                                      | --                     | --                          | --                                       | --                  |
| <b>BOD<sub>5</sub></b> <sup>(3)</sup><br><i>[00310]</i>                         | 1.0 lbs./day<br><i>[26]</i> | 1.3 lbs./day<br><i>[26]</i> | 1.4 lbs./day<br><i>[26]</i> | 30 mg/L<br><i>[19]</i>                  | 45 mg/L<br><i>[19]</i> | 50 mg/L<br><i>[19]</i>      | 1/Month <sup>(2)</sup><br><i>[01/30]</i> | Grab<br><i>[GR]</i> |
| <b>TSS</b> <sup>(3)</sup><br><i>[00530]</i>                                     | 1.0 lbs./day<br><i>[26]</i> | 1.3 lbs./day<br><i>[26]</i> | 1.4 lbs./day<br><i>[26]</i> | 30 mg/L<br><i>[19]</i>                  | 45 mg/L<br><i>[19]</i> | 50 mg/L<br><i>[19]</i>      | 1/Month <sup>(2)</sup><br><i>[01/30]</i> | Grab<br><i>[GR]</i> |
| <b>Settleable Solids</b><br><i>[00545]</i>                                      | --                          | --                          | --                          | --                                      | --                     | 0.3 ml/L<br><i>[25]</i>     | 1/Month <sup>(2)</sup><br><i>[01/30]</i> | Grab<br><i>[GR]</i> |
| <b>Fecal Coliform Bacteria</b> <sup>(4)</sup><br><i>[31616]</i> May 15-Sept. 30 | --                          | --                          | --                          | 15/100 ml <sup>(5)</sup><br><i>[13]</i> | --                     | 50/100 ml<br><i>[13]</i>    | 2/Month <sup>(6)</sup><br><i>[01/30]</i> | Grab<br><i>[GR]</i> |
| <b>Total Residual Chlorine</b> <sup>(7)</sup><br><i>[50060]</i>                 | --                          | --                          | --                          | 0.0075 mg/L<br><i>[19]</i>              | --                     | 0.013 mg/L<br><i>[19]</i>   | 2/Month<br><i>[01/30]</i>                | Grab<br><i>[GR]</i> |
| <b>pH</b><br><i>[00400]</i>   | --                          | --                          | --                          | --                                      | --                     | 6.0 – 9.0 SU<br><i>[12]</i> | 1/Month <sup>(2)</sup><br><i>[01/30]</i> | Grab<br><i>[GR]</i> |

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 4 of this minor permit revision and Page 6 of the September 6, 2011 permit for applicable footnotes.**

## SPECIAL CONDITIONS

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

#### FOOTNOTES:

1. **Sampling** – 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. 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 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.

2. **Monthly Monitoring** – Monthly monitoring for BOD, TSS, settleable solids and pH is required only during the period of **May 1 through September 30, inclusive, of each year.**
3. **Percent Removal** – The treatment facility shall maintain a minimum of 85 percent removal of both biochemical oxygen demand and total suspended solids for all flows receiving secondary treatment.
4. **Bacteria Limits** – Fecal coliform bacteria limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to require year-round disinfection to protect the health, safety and welfare of the public.
5. **Bacteria Reporting** – The monthly average fecal coliform bacteria limitation is a geometric mean limitation and sample results shall be reported as such.
6. **Bacteria Monitoring Period** – Bimonthly monitoring for fecal coliform bacteria is required during the months of **May, June, July, August and September** only.

## **SPECIAL CONDITIONS**

### **J. SEVERABILITY (SUPPLEMENT TO SPECIAL CONDITION J OF THE SEPTEMBER 6, 2011 PERMIT)**

In the event that any provision(s), or part thereof, of this minor permit revision is declared to be unlawful by a reviewing court, the remainder of this minor permit revision and the September 6, 2011 permit shall remain in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

*End of document*



# 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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