



STATE OF MAINE  
Department of Environmental Protection

Paul R. LePage  
GOVERNOR

Patricia W. Aho  
COMMISSIONER

August 13, 2012

Mr. Thomas Connolly  
Superintendent, Yarmouth WPCF  
200 Main Street  
Yarmouth, Maine 04096

RE: Maine Waste Discharge License (WDL) Application #W002234-6B-F-M  
Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102377  
**Minor Revision – Sea Meadows Facility**

Dear Mr. Connolly:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **minor revision** (permit hereinafter) which was approved by the Department of Environmental Protection. Please read the permit 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 287-7693.

Sincerely,

A handwritten signature in cursive script, appearing to read "G. Wood".

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

Enc.

cc: Matt Hight, DEP/SMRO  
Lori Mitchell, DEP/CMRO  
Sandy Mojica, USEPA



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

**DEPARTMENT ORDER**

**IN THE MATTER OF**

TOWN OF YARMOUTH	)	MAINE POLLUTANT DISCHARGE
YARMOUTH, CUMBERLAND COUNTY, ME.	)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS	)	AND
ME0102377	)	WASTE DISCHARGE LICENSE
W002234-6B-F-M	)	MINOR REVISION
	APPROVAL	

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, *et. seq.* and *Conditions of Licenses*, 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 YARMOUTH (Town/permittee hereinafter) to modify combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102377/Maine Waste Discharge License (WDL) #W002234-6B-E-R (permit hereinafter) last issued by the Department on October 12, 2011, with its supportive data, agency review comments, and other related material on file and FINDS THE FOLLOWING FACTS:

**MODIFICATION REQUESTED**

The permittee has requested the Department modify the above referenced permit to replace the monthly average and daily maximum technology based concentration limits of 0.1 mg/L and 0.3 mg/L respectively, for total residual chlorine with a daily maximum technology based limit of 1.0 mg/L for the SeaMeadows waste water treatment facility on the Eben Hill Road in Yarmouth, Maine. The permittee's request is based on the facility's inability to maintain an adequate fecal coliform bacteria kill level to comply with the water quality based limits for fecal coliform in the permit (monthly average 15 colonies/100 ml and daily maximum 50 colonies/100 ml) and achieve the more stringent technology based limits of 0.1 mg/L and 0.3 mg/L for TRC. The permittee has indicated it can comply with the fecal coliform bacteria limits and achieve a daily maximum technology based concentration limit of 1.0 mg/L for TRC.

**MODIFICATION GRANTED**

This minor revision is replacing the monthly average and daily maximum technology based limits of 0.1 mg/L and 0.3 mg/L, respectively, for TRC with a daily maximum technology based concentration limit of 1.0 mg/L.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 13, 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 M.R.S.A., 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 discharge will be subject to effluent limitations that require application of best practicable treatment.

**ACTION**

THEREFORE, the Department APPROVES the above noted request by the TOWN OF YARMOUTH to modify combination MEPDES permit #ME0102377/WDL #W002234-6B-E-R last issued by the Department on October 12, 2011, to establish a daily maximum technology based concentration limit for total residual chlorine 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, attached to MEPDES permit #ME0102377/WDL #W002234-6B-E-R last issued by the Department on October 12, 2011,
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. All terms and conditions of combination MEPDES permit #ME0102377/WDL #W002234-6B-E-R last issued by the Department on October 12, 2011, not modified by this minor revision remain in effect and enforceable.
4. This minor becomes effective upon the date of signature below and expires on October 12, 2016, concurrent with combination MEPDES permit #ME0102377/WDL #W002234-6B-E-R, last issued by the Department on October 12, 2011. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the this permit, the terms and conditions of the 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 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)].

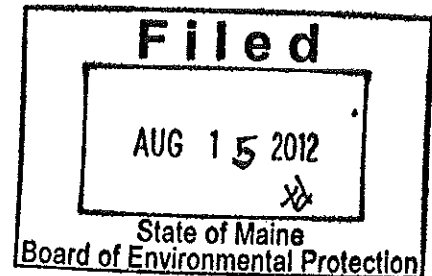
PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 15<sup>th</sup> DAY OF August, 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kulin  
For Patricia W. Aho, Commissioner

Date of initial receipt of application: July 31, 2012  
Date of application acceptance: July 31, 2012



Date filed with Board of Environmental Protection \_\_\_\_\_

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- The permittee is authorized to discharge secondary treated sanitary waste waters from **OUTFALL #001** to Casco Bay. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Monitoring Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	0.028 MGD [03]	—	Report MGD [03]	—	—	—	Continuous [99/99]	Recorder [RC]
Biochemical Oxygen Demand (BOD) [00310]	3.0 #/day [26]	4.5 #/day [26]	5.0 #/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Composite [24]
BOD % Removal <sup>(1)</sup> [81010]	—	—	—	85%	—	—	1/Month [01/30]	Calculate [CA]
Total Suspended Solids (TSS) [00530]	3.0 #/day [26]	4.5 #/day [26]	5.0 #/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Composite [24]
TSS % Removal <sup>(1)</sup> [81011]	—	—	—	85%	—	—	1/Month [01/30]	Calculate [CA]
Settleable Solids [00545]	—	—	—	—	—	0.3 ml/L [25]	1/Month [01/30]	Grab [GR]
Fecal Coliform Bacteria <sup>(2)</sup> [31616]	—	—	—	15/100 ml <sup>(3)</sup> [13]	—	50/100 ml [13]	1/Month [01/30]	Grab [GR]
Total Residual Chlorine <sup>(4)</sup> [50060]	—	—	—	—	—	1.0 mg/L [19]	1/Week [01/07]	Grab [GR]
pH [00400]	—	—	—	—	—	6.0 – 9.0 SU [12]	1/Week [01/07]	Grab [GR]

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: August 13, 2012

PERMIT NUMBER: ME0102377  
WASTE DISCHARGE LICENSE: W002234-6B-F-M

NAME AND ADDRESS OF APPLICANT:

TOWN OF YARMOUTH  
200 Main Street  
Yarmouth, Maine 04096

COUNTY: Cumberland

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

SEAMEADOWS WASTE WATER TREATMENT FACILITY  
94 Eben Hill Road  
Yarmouth, Maine 04096

RECEIVING WATER/CLASSIFICATION: Casco Bay/Class SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Mr. Thomas Connolly  
Superintendent  
(207) 846-2415  
e-mail: [tconnolly@yarmouth.me.us](mailto:tconnolly@yarmouth.me.us)

**1. MODIFICATION REQUESTED**

- a. Request: The permittee has requested the Department modify the above referenced permit to replace the monthly average and daily maximum technology based concentration limits of 0.1 mg/L and 0.3 mg/L respectively, for total residual chlorine with a daily maximum technology based limit of 1.0 mg/L for the SeaMeadows waste water treatment facility on the Eben Hill Road in Yarmouth, Maine. The permittee's request is based on the facility's inability to maintain an adequate fecal coliform bacteria kill level to comply with the water quality based limits for fecal coliform limits in the permit (monthly average 15 colonies/100 ml and daily maximum 50 colonies/100 ml) and achieve the more stringent technology based limits of 0.1 mg/L and 0.3 mg/L for TRC. The permittee has indicated it can comply with the fecal coliform bacteria limits and achieve a daily maximum technology based concentration limit of 1.0 mg/L.

**2. MODIFICATION GRANTED**

This minor revision is replacing the monthly average and daily maximum technology based limits of 0.1 mg/L and 0.3 mg/L for TRC with a daily maximum technology based concentration limit of 1.0 mg/L.

**3. CONDITIONS OF PERMIT**

Maine law, 38 M.R.S.A. §414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A., §420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

**4. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS**

- a. Total Residual Chlorine: The 10/12/11 permitting action established a monthly average and daily maximum technology-based concentration limits of 0.1 mg/L and 0.3 mg/L, respectively, for TRC, which were based on a Department best practicable treatment (BPT) requirement for facilities that dechlorinate their discharge prior to conveying it to the receiving water.

Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department licensing/permitting actions impose the more stringent of either a water quality-based or BPT based limit. End-of-pipe acute and chronic water quality based concentration thresholds may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	87:1 (A) 198:1 (C)	1.1 mg/L	1.5 mg/L

Calculations:

Acute:  $(0.013\text{mg/L})(87) = 1.1 \text{ mg/L}$   
 Chronic:  $(0.0075)(198) = 1.5 \text{ mg/L}$

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. The technology-based limit of 1.0 mg/L is more stringent than either calculated water quality-based thresholds calculated above and is therefore being established as a daily maximum limit in this permitting action.

## 5. ANTI-BACKSLIDING

Federal regulation 40 CFR, §122(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that except for provisions specified in the regulation, effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit. Applicable exceptions include(1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation and(2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance.

This permitting action is establishing a less stringent daily maximum concentration limit for TRC based on effluent test results which were not available at the time of the permit issuance and which would justify the application of less stringent effluent limitations at this time. The Department has made the determination that authorizing the less stringent limitation is necessary to meet all permit limits established in the permit and that the discharges at these levels will not cause or contribute to failure of the receiving water to meet its classification standards at those times of the year.

## 6. ANTI-DEGRADATION - IMPACT ON RECEIVING WATER QUALITY

Maine's anti-degradation policy is included in 38 M.R.S.A., Section 464(4)(F) and addressed in the *Conclusions* section of this permit. Pursuant to the policy, where a new or increased discharge is proposed, the Department shall determine whether the discharge will result in a significant lowering of existing water quality. Increased discharge means a discharge that would add one or more new pollutants to an existing effluent, increase existing levels of pollutants in an effluent, or cause an effluent to exceed one or more of its current licensed discharge flow or effluent limits, after the application of applicable best practicable treatment technology.

This permitting action revises previously established effluent concentration limitation for TRC. The rationale for this action is contained in Section 4(a) of this Fact Sheet. Based on the information provided in the referenced section, the Department has made the determination that the discharge approved by this permit will not result in a significant lowering of water quality. As permitted, the Department has determined the existing and designated water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the Casco Bay to meet standards for Class SB classification.



**7. DEPARTMENT CONTACTS**

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

Gregg Wood

Division of Water Quality Management

Bureau of Land & Water Quality

Department of Environmental Protection

17 State House Station

Augusta, Maine 04333-0017 Telephone: (207) 287-7693 Fax: (207) 287-3435

e-mail: [gregg.wood@maine.gov](mailto:gregg.wood@maine.gov)



# 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.**

---