



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

November 28, 2006

Ocean Gate Motor Inn
Attn: Kim Swan
P.O. Box 240
Southport, ME 04576

RE: **Final Permit** Maine Waste Discharge License (WDL) Application #W001013-5C-B-R
Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036862

Dear Mr. Swan:

Enclosed please find a copy of your **final** MEPDES permit/Maine WDL which was approved by the Department of Environmental Protection. Please read the permit/license 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 287-3901.

Sincerely,

Michael Demarest
Division of Water Quality Management
Bureau of Land and Water Quality

Enc. Final Permit

cc: Chris Johnson, DEP/CMRO
Gregg Wood, DEP/CMRO
Bill Hinkel, DEP/CMRO
Roger Janson, USEPA



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

DEPARTMENT ORDER

IN THE MATTER OF

MC FARLAND, SWAN AND COSTON HOLDINGS, LLC.) MAINE POLLUTANT DISCHARGE
d/b/a/ OCEAN GATE MOTOR INN) ELIMINATION SYSTEM PERMIT
SOUTHPORT, LINCOLN COUNTY, MAINE)
OVERBOARD DISCHARGE) AND
#ME0036862) WASTE DISCHARGE LICENSE
#W001013-5C-B-R APPROVAL) RENEWAL AND TRANSFER

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, Maine Law 38 M.R.S.A., Section 414-A and Department rule 06 096 CMR Chapter 596 et seq., the Department of Environmental Protection (Department) has considered the application of the MC FARLAND, SWAN AND COSTON HOLDINGS, LLC. d/b/a/ OCEAN GATE MOTOR INN (INN) with its supportive data, agency review comments, and the related material on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The Inn has applied to the Department for renewal and transfer of Waste Discharge Conditional Permit #W001013-66-A-R to its name. Waste Discharge Conditional Permit #W001013-66-A-R, issued to Ocean Gate Motor Inn on April 8, 1993, authorized the seasonal discharge of no more than 5,000 gallons per day (gpd) of secondary treated sanitary wastewater to the Atlantic Ocean at Townsend Gut, Class SB, in Southport, Maine. Waste Discharge Conditional Permit #W001013-66-A-R expired on April 8, 2003.

On January 12, 2001, the Department received authorization from the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine. From that point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permit program and permit #ME0036862 (new MEPDES permit number) will be utilized as the primary reference number for this facility.

Historic discharge monitoring results have been maintained in the national Permit Compliance System (PCS) database under PCS #MEU501013.

This permitting action is similar to the previous licensing action in that it is:

1. Carrying forward the daily maximum flow limitation of 5,000 gpd;
2. Carrying forward the monthly average and daily maximum technology based concentration limits for biochemical oxygen demand (BOD₅) and total suspended solids (TSS);
3. Carrying forward the daily maximum technology based concentration limit for settleable solids;
4. Carrying forward the monthly average technology based concentration limits for fecal coliform; and
5. Carrying forward the seasonal discharge duration limits between May 15 and September 30 of each year, inclusive.

This permitting action is different from the previous licensing action in that it is:

1. Replacing the Permit Compliance System (PCS) tracking number of MEU501013 with a new MEPDES permit number of ME0036862;
2. Clarifying a requirement that the facility record the discharge volume daily and submit the daily discharge volume data to the Department monthly during the operating season;
3. Establishing monthly average, weekly average and daily maximum technology-based mass limits for BOD₅ and TSS;
4. Establishing weekly average technology based BOD₅ and TSS concentration limits of 45 mg/L;
5. Eliminating the monthly average technology based concentration limit for settleable solids;
6. Revising the daily maximum water quality-based fecal coliform bacteria limit;
7. Revising the pH range limitation to 6.0 – 9.0 standard units;
8. Establishing a requirement to monitor for settleable solids once monthly in June, July, August and October; and
9. Establishing a requirement to develop and maintain an up-to-date Operations and Maintenance (O&M) plan.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated November 28, 2006, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

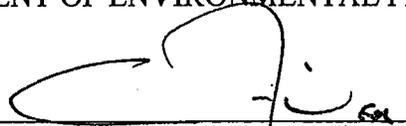
1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification that the Department expects to adopt in accordance with State law.
3. The provisions of the State's ant degradation policy, 38 M.R.S.A. §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 water 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 as defined in Maine law, 38 M.R.S.A., §414-A(1)(D).
5. The overboard discharge system was in continuing existence for the 12 months preceding June 1, 1987.
6. A subsurface wastewater disposal system could not be installed in compliance with the Maine Subsurface Waste Water Disposal Rules at the time the renewal application was accepted by the Department.
7. A publicly owned sewer line is not located on or abutting land owned or controlled by the permittee or is not available for the permittee's use.
8. The discharge is not located within the boundaries of a sanitary district or sewer district.

ACTION

THEREFORE, the Department APPROVES the application of MCFARLAND, SWAN AND COSTON HOLDINGS, LLC d/b/a the OCEAN GATE MOTOR INN to discharge no more than 5,000 gallons per day of secondary treated sanitary wastewater into the Atlantic Ocean at Townsend Gut, Class SB, Southport, Maine. The discharge will be 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.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. The expiration date of this permit is five (5) years from the date of signature below.

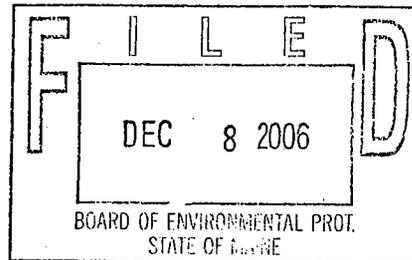
DONE AND DATED AT AUGUSTA, MAINE, THIS 6TH DAY December, 2006.
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 

DAVID P. LITTELL, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: November 18, 2004
Date of application acceptance: December 3, 2004



SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – OUTFALL #001

- The permittee is authorized to discharge secondary treated wastewaters from outfall #001 to the Atlantic Ocean at Townsend Gut between May 15 and September 30 (inclusive) of each year. Such discharges shall be limited and monitored by the permittee as specified below(1):

| Effluent Characteristic | Discharge Limitations | | | | | Minimum Monitoring Requirements | | |
|---|------------------------------|-----------------------------|----------------------------|---------------------------------|-----------------------------|---------------------------------|------------------------------------|--------------------------|
| | Monthly Average as specified | Weekly Average as specified | Daily Maximum as specified | Monthly Average as specified | Weekly Average as specified | Daily Maximum as specified | Measurement Frequency as specified | Sample Type as specified |
| Flow(MGD) [50050] | Report GPD [07] | --- | 5,000 gpd [07] | --- | --- | --- | Continuous [99/99] | Measured [MS] |
| Biochemical Oxygen Demand (BOD ₅) [00310] | 1.3 lbs/day [26] | 1.9 lbs/day [26] | 2.1 lbs/day [26] | 30 mg/L [19] | 45 mg/L [19] | 50 mg/L [19] | OnceMonth ⁽²⁾ [01/30] | Grab [GR] |
| BOD ₅ % Removal ⁽³⁾ [81010] | --- | --- | --- | 85% [23] | --- | --- | OnceMonth ⁽²⁾ [01/30] | Calculate [CA] |
| Total Suspended Solids (TSS) [00530] | 1.3 lbs/day [26] | 1.9 lbs/day [26] | 2.1 lbs/day [26] | 30 mg/L [19] | 45 mg/L [19] | 50 mg/L [19] | OnceMonth ⁽²⁾ [01/30] | Grab [GR] |
| TSS % Removal ⁽³⁾ [81011] | --- | --- | --- | 85% [23] | --- | --- | OnceMonth ⁽²⁾ [01/30] | Calculate [CA] |
| Settleable Solids [00545] | --- | --- | --- | --- | --- | 0.3 ml/L [25] | OnceMonth ⁽²⁾ [01/30] | Grab [GR] |
| Fecal Coliform Bacteria [31633] | --- | --- | --- | 15/100 ml/L ⁽⁴⁾ [13] | --- | 50/100 ml [13] | OnceMonth ⁽²⁾ [01/30] | Grab [GR] |
| Total Residual Chlorine [50060] | --- | --- | --- | --- | --- | 1.0 mg/L [19] | 2/Week [02/07] | Grab [GR] |
| pH (Std. Unit) [00400] | --- | --- | --- | --- | --- | 6.0 – 9.0 SU [12] | 2/Week [02/07] | Grab [GR] |

The italicized numeric values bracketed in the table above and on the following pages are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports

- Sampling – Sampling and analysis must be conducted in accordance with: a) methods approved by 40 Code of Federal Regulations (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.

All detectable 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.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes (continued):

- 2. For the purposes of this report, monthly monitoring reports shall be conducted in June, July, August and October. Monitoring and reporting need only be conducted during the permitted months of operation.*
- 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. The percent removal shall be calculated based on assumed midrange BOD5 and TSS influent values of 286 mg/L and actual effluent concentration values.*
- 4. Fecal coliform bacteria – The monthly average limit is a geometric mean limitation and sample results shall be calculated and reported as such on the monthly DMR.*

B. ANNUAL DISCHARGE FEES

Pursuant to Maine law, 38 M.R.S.A. §353-B, the permittee is required to pay an applicable annual fee for discharges authorized by this license. Failure to pay an annual fee within 30 days of the billing date of a license is sufficient grounds for revocation of the license, permit or privilege under Maine law, 38 M.R.S.A. §341-D, subsection 3.

C. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time that would impair the usages designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharge shall not impart color, taste, turbidity, toxicity, radioactivity or other properties that would cause those waters to be unsuitable for the designated uses and characteristics ascribed to their class.
4. Notwithstanding specific conditions of this permit, the effluent must 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.

D. DISINFECTION

If chlorination is used as a means of disinfection, an approved chlorine contact tank providing the proper detention time consistent with good engineering practice must be utilized, followed by a dechlorination system if the total residual chlorine (TRC) cannot be met by dissipation in the detention tank. The TRC in the effluent shall at no time cause any demonstrable harm to aquatic life in the receiving waters. The dose of chlorine applied shall be sufficient to leave a TRC concentration that will effectively reduce fecal coliform bacteria to levels below those specified in Special Condition A, "Effluent Limitations and Monitoring Requirements."

E. TREATMENT PLANT OPERATOR

The treatment facility must continually maintain a maintenance contract by a person holding a minimum of a **Grade II** certificate (or a Maine Registered Professional Engineer) pursuant to Title 32 M.R.S.A, section 4171 *et seq.*

SPECIAL CONDITIONS

F. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that the Discharge Monitoring Reports are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

Overboard Discharge Inspector
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333-0017

G. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee shall notify the Department of the following:

1. Any substantial change or proposed change in the volume or character of pollutants being introduced into the wastewater collection and treatment system. For the purposes of this section, notice regarding substantial change shall include information on:
 - (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
 - (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

H. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with the terms and conditions of this permit and only from the single existing Outfall 001A. Discharges of wastewater from any other point source are not authorized under this permit, but shall be reported in accordance with Standard Condition B(5), Bypasses, of this permit.

Discharges of a volume or quantity of wastewater that were not licensed as of June 1, 1987 are prohibited by this permit. Pursuant to Maine law, 38 M.R.S.A. §464(4)(A)(6), increases in the volume or quantity of wastewater discharged are not authorized by this permit.

I. CONNECTION TO MUNICIPAL SEWER

All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

SPECIAL CONDITIONS

J. SITE EVALUATION FOR TRANSFERRED AND RENEWED PERMITS

Prior to permit transfer or transfer of the property occupying the permitted overboard discharge system or renewal of this permit, a site evaluation must be performed by a licensed site evaluator with experience in designing systems for the replacement of overboard discharge systems if one has not been conducted in the previous five years. The Department may not grant approval for permit transfer if the site evaluation concludes that a non-discharging wastewater disposal system designed in compliance with the Maine Subsurface Waste Water Disposal Rules administered by the Maine Department of Health and Human Services, Division of Health Engineering can be installed as a replacement system for the overboard discharge.

K. OPERATION & MAINTENANCE (O&M) PLAN

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan shall be kept on-site at all times and made available to Department and EPA personnel upon request.

Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility, the permittee shall submit the updated O&M Plan to their Department inspector for review and comment.

L. 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 or ambient water quality monitoring if results on file are inconclusive; (3) change monitoring requirements or limitations based on new information; or (4) require elimination of the discharge where an alternative form of wastewater disposal is feasible.

M. SEVERABILITY

In the event that any provision or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit will remain in full force and effect, and shall be construed and enforced in all respects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

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

Date: November 28, 2006

MEPDES PERMIT: #ME0036862
WASTE DISCHARGE LICENSE: #W001013-5C-B-R

NAME AND ADDRESS OF APPLICANT:

**MCFARLAND, SWAN AND COSTON HOLDINGS, LLC
D/B/A OCEAN GATE MOTOR INN
P.O. BOX 46,
BAR HARBOR, MAINE 04609**

COUNTY: LINCOLN

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**OCEAN GATE MOTOR INN
70 OCEAN GATE RD
SOUTHPORT, MAINE 04576**

RECEIVING WATER/CLASSIFICATION: ATLANTIC OCEAN AT TOWNSEND GUT, CLASS SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**MCFARLAND, SWAN AND COSTON HOLDINGS, LLC
ATTN: KIM SWAN
P.O. BOX 240
SOUTHPORT, ME 04576**

(207) 266-5818

1. APPLICATION SUMMARY

The Inn has applied to the Department for renewal and transfer of Waste Discharge Conditional Permit (WDCP) #W001013-66-A-R to its name. Waste Discharge Conditional Permit #W001013-66-A-R, issued to Ocean Gate Motor Inn on April 8, 1993, authorized the seasonal discharge of no more than 5,000 gallons per day (gpd) of secondary treated sanitary wastewater to the Atlantic Ocean at Townsend Gut, Class SB, in Southport, Maine. Waste Discharge Conditional Permit #W001013-66-A-R expired on April 8, 2003.

Historic discharge monitoring results have been maintained in the national Permit Compliance System (PCS) database under PCS #MEU501013.

2. PERMIT SUMMARY

a. Regulatory - On January 12, 2001, the Department received authorization from the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine. From that point forward, the program has been referred to as the MEPDES permit program and #ME0036862 (new MEPDES permit number) will be utilized as the primary reference number for the Ocean Gate Motor Inn wastewater treatment facility.

b. Terms and Conditions

This permitting action is similar to the previous Waste Discharge License in that it is;

1. Carrying forward the daily maximum flow limitation of 5,000 gpd;
2. Carrying forward the monthly average and daily maximum technology based concentration limits for biochemical oxygen demand (BOD₅) and total suspended solids (TSS);
3. Carrying forward the daily maximum technology based concentration limit for settleable solids;
4. Carrying forward the daily maximum water quality based and monthly average technology based concentration limits for fecal coliform; and
5. Carrying forward the seasonal discharge duration limits between May 15 and September 30 of each year, inclusive.

This permitting action is different from the previous Waste Discharge License in that it is;

1. Replacing the Permit Compliance System (PCS) tracking number of MEU501013 with a new MEPDES permit number of ME0036862;
2. Clarifying a requirement that the facility record daily and submit the daily discharge volume data to the Department monthly.
3. Establishing monthly average, weekly average and daily maximum technology-based mass limits for BOD₅ and TSS;
4. Establishing weekly average technology based BOD₅ and TSS concentration limits of 45 mg/L;
5. Eliminating the monthly average technology based concentration limit for settleable solids;
6. Revising the daily maximum water quality-based fecal coliform bacteria limit;
7. Revising the pH range limitation to 6.0 – 9.0 standard units;
8. Establishing a requirement to monitor for settleable solids once monthly in June, July, August and October; and
9. Establishing a requirement to develop and maintain an up-to-date Operations and Maintenance (O&M) plan.

2. PERMIT SUMMARY (cont')

- c. History - The most current/relevant regulatory actions regarding the discharge from the facility include:

April 10, 1982 – The EPA received an application for the Ocean Gate Motor Inn. The EPA never acted on the application.

April 8, 1993– The Department issued WDCP #W001013-66-A-R for a ten-year term. WDCP #W001013-66-A-R authorized the discharge of up to 5,000 gpd of secondary treated wastewater.

November 18, 2004 – The applicant submitted an application to the Department for renewal of the WDCP. The Department accepted the application for processing on November 25, 2004.

- d. Source description - Sanitary wastewaters are generated from the 48-unit motel facility. The Ocean Gate Motor Inn is located on Southport Island, an island connected to the mainland via vehicle bridge.
- e. Wastewater treatment - The wastewater currently receives primary treatment from a 5,000-gallon septic tank and secondary treatment from a 55 ft. by 68 ft. (3740 sq. ft.) dual sand filter bed. The treated wastewater is discharged into the receiving waterbody via a six-inch diameter outfall pipe without a diffuser and with approximately two feet of water over the crown of the pipe at mean low water.

3. CONDITIONS OF PERMITS

Maine law, 38 M.R.S.A. Section 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., Section 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. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A., Section 469, classifies Townsend Gut at the point of discharge as Class SB waters. Maine law, 38 M.R.S.A., Section 465-B(2) describes the classification standards for Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine, Department of Environmental Protection, 2004 Integrated Water Quality Monitoring and Assessment Report (305b) report published by the Department includes this waterbody #710 (including DMR Legal Notice Closed Area C-23A) in a table entitled, Category 2: Estuarine And Marine Waters Attaining Some Designated Uses, No Use is Threatened, and Insufficient Data or Information to Determine If Other Uses Are Attained or Threatened. "Insufficient information for other uses" in this context refers to the designated use of shellfish harvesting.

5. RECEIVING WATER QUALITY CONDITIONS (continued)

The Maine Department of Marine Resources assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The Maine Department of Marine Resources has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality. The Maine Department of Marine Resources traditionally closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (in-stream thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions. In addition, the Department of Marine Resources prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Thus, shellfish harvesting area #C-23 is closed to the harvesting of shellfish due to insufficient or limited ambient water quality data to determine that the area meets the standards in the National Shellfish Sanitation Program. This Department is making the determination that compliance with the fecal coliform bacteria and other secondary wastewater treatment limits established in this permitting action ensure that the discharge of secondary treated wastewater from the permittee's OBD system will not cause or contribute to the failure of the receiving waters to meet the standards of its designated classification.

6. COMPLIANCE

The overboard discharge treatment system has been inspected by the Department ten times in the past five years. The treatment system was found to comply with the inspection criteria all of the ten inspections. Submitted Discharge Monitoring Reports show two violations of fecal coliform limits and one violation of chlorine limits in the five-year period between June of 2000 and February 2006.

7. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Best Practicable Treatment (BPT) - Overboard discharges may be permitted only where no technologically proven alternative exists. Overboard discharge treatment systems must be capable of meeting secondary treatment standards as described in CMR Chapter 525, Section 3 unless the Department finds that alternate limits are appropriate.
 - (1) The applicant has demonstrated that connection to a municipal sewerage system is not possible because one is not located on or abutting land owned or controlled by the applicant.
 - (2) The discharge is from a seasonal multi-unit facility and the applicant has demonstrated that a subsurface wastewater system is not practicable on land owned or controlled by the applicant in conformance with the State of Maine Subsurface Wastewater Disposal Rules at this time. The applicant's Licensed Site Evaluator/P.E. has determined that there is not a subsurface option because of the shallow depth to bedrock. A holding tank is not considered best practicable treatment for a commercial facility with a discharge volume of 5,000 gpd.
 - (3) The existing treatment system is capable of meeting secondary treatment standards and is appropriate technology for the wastewater being discharged.
- b. Flow - The previous licensing action established a daily maximum flow limitation of 5,000 gpd that is being carried forward in this permitting action. The discharge duration and volume limits are based on the demonstrated use as a seasonal facility during the qualifying period between June 1, 1986 and June 1, 1987, as required under the provisions of Maine law, 38 MRSA 464.4.A.6.

7. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)

Treatment is accomplished through a 5,000-gallon septic tank and secondary treatment from a 55 ft. by 68 ft. (3740 sq. ft.) dual sand filter bed. The installed 3740 sq. ft. sand filter bed is significantly smaller than the 5,000 square foot sand filter as it was designed and licensed. Consequently, the licensed discharge limit exceeds the daily maximum design capacity of the existing wastewater treatment facility by 365 gpd. The motel units have been retrofitted with low-volume plumbing fixtures. The monthly Discharge Monitoring Reports submitted by the applicant for the period between June 30, 2000 and February 19, 2006, indicate the monthly average (arithmetic mean $n=23$) flow over the past five years to be 3,558 gpd. No daily maximum values were reported.

Under the provisions of the Maine State Plumbing Code, 10 CMR 241, the minimum design flow for 48 motel units with private baths and 21 employees is 100 gallons per day (gpd) plus 15 gpd per employee. Under the provisions of the Maine State Plumbing Code, 10 CMR 241, the Inn is allowed a ten percent reduction in design flow for the use of low-volume fixtures. The combined minimum design flow is 4,635 gallons per day, which is below the maximum permitted overboard discharge by 365 gpd but exceeds the systems treatment capacity by 895 gpd. The measured average weekly discharge is 3,558 gpd.

Additionally, with the exception of the two bacteria limit violations noted in the compliance section, effluent quality has consistently been good, indicating that the sand filter size generally appears to be adequate. However, the noted violations may be indicative of occasionally excessive flows. In particular, the submitted Discharge Monitoring Reports (DMRs) consistently record the weekly average flows and the daily maximum flows to be the same number. This is likely the result of weekly flow monitoring instead of the daily-required flow monitoring. Therefore, this permit is requiring the monthly submission of daily flow data during the operating season. The operating season is limited to the authorized discharge duration between May 15 and September 30 of each year, inclusive. Daily discharge volume may be measured either by metering daily water use at the potable water intake(s) of those facilities discharging to the OBD treatment system, or metering/measuring the treated wastewater discharge;

- c. Dilution Factors - Department rule, 06-096 CMR Chapter 530(4)(A)(2)(a), Surface Water Toxics Control Program, states that, "For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model." Using plan and profile information provided by the permittee and the CORMIX model, the Department has determined the dilution factors for the 5,000-gpd discharge from the Ocean Gate Motor Inn wastewater treatment facility are as follows:

Acute = 364:1

Chronic = 1116:1

Harmonic Mean: 1092:1⁽¹⁾

Footnote:

(1) The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication "Technical Support Document for Water Quality-based Toxics Control" (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

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

- d. Biochemical Oxygen Demand (BOD₅) & Total Suspended Solids (TSS) - The previous licensing action established monthly and daily maximum BOD₅ and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 50 mg/L, respectively. The monthly average BOD₅ and TSS concentration limits were based on secondary treatment requirements of Department rule, 06-096 CMR Chapter 525(3)(III). The maximum daily BOD₅ and TSS concentration limits of 50 mg/L were based on a Department best professional judgment of Best Practicable Treatment (BPT). These concentration limits are being carried forward in this permitting action. The weekly average BOD₅ and TSS concentration limits of 45 mg/L being established in this action are based on the secondary treatment requirements of Department rule, 06-096 CMR Chapter 525(3)(III).

The BOD₅ data as reported on the Discharge Monitoring Reports submitted to the Department for the period June 2000 – June 2006 indicates the daily maximum effluent BOD₅ has ranged from 1 mg/L to 18 mg/L with an arithmetic mean of 6.3 mg/L (n=23), well below the respective permitted 30 mg/L and 50 mg/L limits. The TSS data as reported on the Discharge Monitoring Reports submitted to the Department for the period June 2000 – June 2006 indicates the daily maximum effluent TSS has ranged from 3 mg/L to 21 mg/L with an arithmetic mean of 10.4 mg/L (n=23), well below their respective permitted limits of 30 mg/L and 50 mg/L.

As for mass limitations, the previous licensing action did not establish monthly average, weekly average and daily maximum limitations. However, Department rule Chapter 523 (6)(f) states, "All pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass. . . ." Therefore, monthly average, weekly average and daily maximum technology based mass limits for BOD₅ and TSS are calculated based on the daily maximum flow limitation of 0.005 MGD, the applicable BPT concentration limits and a conversion factor of 8.34 lbs/gallon. The limitations were calculated as follows:

| |
|---|
| Monthly average: $(0.005 \text{ MGD})(8.34)(30 \text{ mg/L}) = 1.3 \text{ lbs/day}$ |
| Weekly average: $(0.005 \text{ MGD})(8.34)(45 \text{ mg/L}) = 1.9 \text{ lbs/day}$ |
| Daily maximum: $(0.005 \text{ MGD})(8.34)(50 \text{ mg/L}) = 2.1 \text{ lbs/day}$ |

This permitting action is also establishing a new requirement for a minimum of 85% removal of BOD₅ and TSS pursuant to Chapter 525(3)(III)(a)(3) and (b)(3) of the Department's rules. The Ocean Gate Motor Inn wastewater treatment system does not contain an influent sampling location that is representative of raw wastewater conditions. According to the USEPA's Onsite Wastewater Treatment Systems Manual, dated February 2002, table 3-7 entitled "Constituent Mass Loadings and Concentrations in Typical Residential Wastewater" high end range of values, influent values for BOD₅ and TSS may be assumed to be 286 mg/L. This permitting action authorizes Ocean Gate Motor Inn to assume a midrange influent BOD₅ and TSS concentration value of 286 mg/L for purposes of calculating the monthly percent removal value until such time that the infrastructure is modified or replaced such that collection of a representative raw influent sample is practical, but shall meet the 30 mg/L limit for TSS and BOD₅.

The 4x/season monitoring frequencies for BOD₅ and TSS are being carried forward from the previous licensing action but are being restated as once monthly in June, July, August and October for clarity and are based on Department policy for seasonal facilities with a flow limitation of 0.005 MGD (5000 gpd) to 0.999 MGD (9,999 gpd).

- e. Settleable Solids - The previous license did not require measurement of this parameter. The Department has made the determination that the daily maximum limitation of 0.3 ml/L provides the Department with sufficient information to determine if the discharge is receiving BPT. Therefore, this permitting action is establishing a requirement to monitor for settleable solids once monthly in June, July, August and October of each year.

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

- f. Fecal Coliform Bacteria -The previous licensing action established a daily limitation of 15 colonies/100 ml. In 1998, the Department reevaluated the fecal coliform bacteria limitations it was establishing in licenses for discharges to marine and estuarine waters. The Department determined that new water quality based limitations of 15 colonies/100 ml as a monthly average (geometric mean) and 50 colonies/100 ml were to be established in licensing/permitting actions thereafter to promote consistency with the National Shellfish Sanitation Program. Therefore, this permitting action is establishing said water quality based limitations. The limitations are in effect while this seasonally limited discharge occurs.
- g. Total Residual Chlorine (TRC) - Limits for TRC are specified to ensure that ambient water quality standards are maintained and that BPT is being applied to the discharge. The previous licensing action established a daily maximum water quality based limit of 1.0 mg/L. The Department imposes the more stringent of the water quality or technology based limits in permitting actions. End-of-pipe water quality based concentration thresholds may be calculated as follows:

| | | | |
|------------------|--------------------------|--------------------------------|-------------------------|
| <u>Parameter</u> | <u>Acute Criterion</u> | <u>Acute Dilution Factor</u> | <u>Daily Max Limit</u> |
| Chlorine | 0.013 mg/L | 364:1 | 4.73 mg/L |
| <u>Parameter</u> | <u>Chronic Criterion</u> | <u>Chronic Dilution Factor</u> | <u>Daily Max. Limit</u> |
| Chlorine | 0.0075mg/L | 1116:1 | 8.37 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 dechlorinate the discharge in order to meet 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 Inn does not have to dechlorinate the effluent to achieve compliance with water quality-based limitations.

The daily maximum technology-based effluent TRC concentration limitation of 1.0 mg/L is more stringent than either calculated water quality-based threshold above and is therefore the established criterion in this permitting action. This permitting action is carrying forward the minimum monitoring frequency of twice weekly [02/07] based on Department guidance for overboard discharge (OBD) systems permitted to discharge between 5,000 and 9,999 GPD, and is carrying forward the “grab” sample type.

TRC monitoring is required any time chlorine-based compounds are in use for effluent disinfection. For instances when the permittee has not utilized chlorine-based compounds for effluent disinfection for an entire reporting period, the permittee shall report “NODI-9” for this parameter on the monthly Discharge Monitoring Report.

- h. pH Range - The previous licensing action established a pH range limitation of 6.0 - 8.5 standard units. This permitting action is expanding the range limit from 6.0 – 8.5 to 6.0 –9.0 standard units pursuant to a new Department rule found at Chapter 525(3)(III)(c). The new limits are considered BPT.
- i. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: Maine law, 38 M.R.S.A., §414-A and §420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* (toxics rule) sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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

The previous licensing action neither established nor addressed WET or priority pollutant testing requirements of the toxics rule. Chapter 530 Section (2)(A) specifies the dischargers subject to the rule as, *"all licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedences of narrative or numerical water quality criteria."*

Chapter 530(2)(A) specifies the criteria for exemption of certain discharges from toxics testing as follows:

- (1) *Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility;*
- (2) *Discharges from residential overboard discharge systems; or*
- (3) *Discharges from combined sewer overflow discharge points, provided the owner of the sewerage system is conducting or participating in a discharge abatement program.*

The Inn is permitted to discharge up to 5,000 gpd of solely domestic wastewater and has a chronic dilution factor of 1116:1. Therefore, the facility qualifies for an exemption from toxics testing and this permitting action is not establishing toxics testing requirements.

8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

The overboard discharge treatment system has been inspected by the Department annually over the past five years. The treatment system was consistently found to be in compliance with the inspection criteria. As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody to meet standards for Class SB classification.

9. PUBLIC COMMENTS

Public notice of this application was made on or about November 3, 2004 via certified mail. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

10. DEPARTMENT CONTACTS

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

Michael Demarest
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) 287-6301 E-mail: michael.demarest@maine.gov

11. RESPONSE TO COMMENTS

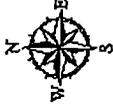
During the period of October 19, 2006 through November 20, 2006, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to Ocean Gate Motor Inn for the proposed discharge. The Department received no significant comments on the proposed draft permit; therefore, a response to comments was not prepared.

APPENDIX A

Mc Farland, Swan and Coston Holdings, LLC.
d/b/a/ Ocean Gate Motor Inn
Southport, Lincoln County, Maine
MEPDES #ME0036862
WDL#W001013-5C-B-R



Legend



----- Towns_lines



Overboard Discharges





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.
