



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

January 16, 2007

Mr. Jody Lewis
Town of Boothbay Harbor
11 Howard Street
Boothbay Harbor, ME 04538

**RE: *Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036340
Maine Waste Discharge License (WDL) #W-007938-5V-D-R
Final MEPDES permit and Maine WDL***

Dear Mr. Lewis:

Enclosed, please find a copy of your **final** MEPDES permit and 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 287-7659.

Sincerely,

Bill Hinkel
Division of Water Quality Management
Bureau of Land and Water Quality

Enclosure

cc: Denise Behr, DEP
Lori Mitchell, DEP
Sandy Loa, USEPA
File #7938

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143



DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF BOOTHBAY HARBOR)	MAINE POLLUTANT DISCHARGE
WASTE SNOW DUMP)	ELIMINATION SYSTEM PERMIT
BOOTHBAY HARBOR, LINCOLN COUNTY)	AND
#ME0036340)	WASTE DISCHARGE LICENSE
#W007938-5V-D-R APPROVAL)	RENEWAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, §1251, *et seq.*, and Maine law, 38 M.R.S.A., §414-A *et seq.*, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the TOWN OF BOOTHBAY HARBOR (Town), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The Town has applied to the Department for renewal of Waste Discharge License (WDL) #W007938-5V-C-R/ Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0036340, which was issued on February 19, 2002, and is scheduled to expire on February 19, 2007. The WDL approved the discharge of waste snow collected from roadways, sidewalks, and parking areas in the downtown Boothbay Harbor area to the tidewaters of Boothbay Harbor at the Municipal Parking Lot, Class SB, in Boothbay Harbor, Maine.

PERMIT SUMMARY

This permitting action is establishing a new requirement to implement best management practices (BMPs) for the discharge of waste snow to the tidewaters of Boothbay Harbor (Special Condition C). The permittee is required to employ BMPs to minimize contamination of waste snow with street litter and sand or sand-salt mixtures. This permit does not authorize the discharge of waste snow that is contaminated with oil, petroleum products, chemicals, hazardous wastes or substances, or solid waste (other than incidental street litter).

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 12, 2007, 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:
 - (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. No practicable upland alternative location(s) exists for the disposal of waste snow collected by the Town of Boothbay Harbor.
6. The discharge will not have a significant impact on navigation.
7. The Town will restrict the use of sand or sand-salt mixtures in those areas from which the snow will be collected for disposal in the tidewaters of Boothbay Harbor.
8. The Town will employ best management practices to minimize contamination of waste snow by litter.
9. The Town shall not discharge waste snow that is contaminated with oil, chemicals, hazardous wastes or substances, or solid waste (other than incidental street litter) such that the discharge violates Conditions 1 through 3 of this section.

ACTION

THEREFORE, the Department APPROVES the above noted application of the TOWN OF BOOTHBAY HARBOR to discharge an unspecified quantity of waste snow to the tidewaters of Boothbay Harbor at the Municipal Parking Lot, Class SB, in Boothbay Harbor, Maine, 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.
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 16TH DAY OF JANUARY, 2007.

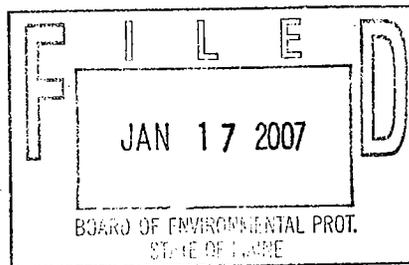
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
DAVID P. LITTELL, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: November 22, 2006

Date of application acceptance: November 28, 2006



Date filed with Board of Environmental Protection: _____

This Order prepared by William F. Hinkel, BUREAU OF LAND & WATER QUALITY
#ME0036340 / #W007938-5V-D-R January 12, 2007

SPECIAL CONDITIONS

A. NOTIFICATION REQUIREMENT

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

1. Substantial expansion of the areas from which snow is collected for disposal.
2. Substantial increases in development in the areas from which snow is collected for disposal, including new commercial or industrial developments.
3. Any substantial change in the volume of waste snow or snow dump area. For the purposes of this section, notice regarding substantial change shall include information on:
 - a. the quality and quantity of waste snow introduced to the snow dump; and
 - b. any anticipated impact caused by the change in the quantity or quality of the waste snow to be discharged from the snow dump area.
4. Any substantial change in snow dumping activities that may affect navigation.

B. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with the terms and conditions of this permit and only from the Municipal Parking Lot. Discharges of waste snow from any other point source are not authorized under this permit.

C. CONDITIONS FOR THE DISCHARGE OF WASTE SNOW

1. The discharge shall not cause a visible oil sheen, foam, or floating solids, other than ice or snow, at any time, or which would impair the usage 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, which 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.
5. The discharge of snow shall not cause impoundment of the receiving waters or alter its flow and snow shall not be allowed to accumulate on the inter-tidal areas or wetland.

SPECIAL CONDITIONS

C. CONDITIONS FOR THE DISCHARGE OF WASTE SNOW (cont'd)

6. The discharge of snow shall only occur at the Municipal Parking Lot, or any other site approved by the Department.
7. Only snow which is removed from areas where the use of sand or sand/salt mixtures is restricted may be discharged. All waste snow collected for disposal via discharge must be removed from the collection area within 72 hours following the end of a snow event.
8. Snow, which is visibly contaminated with oil, chemicals, hazardous wastes or substances, or solid waste (other than incidental street litter) shall not be discharged. Snow collected from areas affected by chemical spills or other circumstances which may result in the presence of toxic compounds in toxic amounts shall not be discharged.
9. The permittee shall conduct weekly litter removal of the areas from which waste snow will be discharged.

D. RECORD OF ACTIVITIES FOR WASTE SNOW DUMPS

The permittee shall maintain a record for snow removal and disposal activities which includes information on:

1. Changes in development or snow removal practices that may affect the quality or quantity of waste snow discharged.
2. The approximate quantity (gallons, cubic yards or other measure) of waste snow discharged overboard per day.
3. Reports or observations of floating materials, deposits, changes to navigation or other circumstances that result from the discharge of waste snow from the approved site.
4. Best Management Practices (BMPs) conducted to minimize the discharge of pollutants, such as street litter and debris.

The Record Log and copy of BMPs shall be kept on-site at all times and made available to Department and USEPA personnel upon request.

SPECIAL CONDITIONS

E. REOPENING OF PERMIT FOR MODIFICATION

Upon evaluation of the tests results in the 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 anytime 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 monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

F. 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 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.

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

FACT SHEET

Date: **JANUARY 12, 2007**

MEPDES PERMIT: #ME0036340
WASTE DISCHARGE LICENSE: #W007938-5V-D-R

NAME AND ADDRESS OF APPLICANT:

**TOWN OF BOOTHBAY HARBOR
11 HOWARD STREET
BOOTHBAY HARBOR, MAINE 04538**

COUNTY: **LINCOLN**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

BOOTHBAY HARBOR AT THE MUNICIPAL PARKING LOT

RECEIVING WATER/CLASSIFICATION: **BOOTHBAY HARBOR/CLASS SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **MR. JODY LEWIS
(207) 633-2316**

1. APPLICATION SUMMARY

Application: The Town of Boothbay Harbor (Town) has applied to the Department of Environmental Protection (Department) for renewal of Waste Discharge License (WDL) #W007938-5V-C-R/ Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0036340, which was issued on February 19, 2002, and is scheduled to expire on February 19, 2007. The WDL approved the discharge of waste snow collected from roadways, sidewalks, and parking areas in the downtown Boothbay Harbor area to the tidewaters of Boothbay Harbor at the Municipal Parking Lot, Class SB, in Boothbay Harbor, Maine.

2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is establishing a new requirement to implement best management practices (BMPs) for the discharge of waste snow to the tidewaters of Boothbay Harbor (Special Condition C). The permittee is required to employ BMPs to minimize contamination of waste snow with street litter and sand or sand-salt mixtures. This permit does not authorize the discharge of waste snow that is contaminated with oil, petroleum products, chemicals, hazardous wastes or substances, or solid waste (other than incidental street litter).
- b. Facility History: This section provides a summary of significant licensing/permitting actions that have been completed for the Town.

January 12, 2001 – The Department received authorization from the USEPA to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine, excluding areas of special interest to Maine Indian Tribes.

February 19, 2002 – The Department issued WDL #W007938-5V-C-R/MEPDES permit #ME0036340 to the Town for the discharge of an unspecified quantity of waste snow collected from the downtown Boothbay Harbor area to the tidewaters of Boothbay Harbor. The 2/19/02 permit is scheduled to expire on February 19, 2007, and superseded WDL # W007938-58-B-N issued on April 4, 1996.

November 22, 2006 – The Town submitted a timely and complete General Application to the Department for renewal of the 2/19/02 MEPDES permit. The application was accepted by the Department on November 28, 2006.

- c. Source Description: Snow is removed from a variety of municipal roadways, parking lots, and other areas and transported to the Municipal Parking Lot, which is identified on the map include as Attachment A of this Fact Sheet. There is approximately 8,000 linear feet of streets and roads as well as 60,000 square feet of parking lots and other areas from which snow is collected for discharge, when necessary. The facility does not receive any waste snow from industrial or commercial sources. The snow is collected in dump trucks for transport to the Municipal Parking Lot.

Best management practices (BMPs) currently employed by the Town include, but are not limited to, street sweeping from summer through fall and maintenance of trash receptacles in the downtown area of Boothbay Harbor. The Town stated that the normal operating procedure is to stockpile snow in the municipal parking lot allowing it to gradually melt over the course of the winter and spring seasons. Occasionally, the area receives more snow than can be stockpiled and the Town only discharges snow directly to Boothbay Harbor when the stockpile has reached capacity. When necessary to discharge waste snow directly overboard, all snow is collected and disposed of within 72 hours following snow removal activities.

2. PERMIT SUMMARY (cont'd)

The Town provided a letter from the United States Coast Guard, dated November 2, 2006, which states, "there are no hazards to navigation related to snow dumping at the Municipal Parking Lot in Boothbay Harbor." The Town provided a letter from the Boothbay Harbor Harbormaster, dated November 1, 2006, which states, "I do not see any problem or impediment with navigation using the Municipal Parking Lot within the Footbridge for the Snow Dump."

The permittee has evaluated the suitability of other Town-owned land for an upland snow dump and has determined them to be unsuitable or not practicable due to insufficient area in the urbanized downtown area.

- d. Wastewater Treatment: The Town does not provide treatment of waste snow prior to overboard discharge. The Town employs best management practices to minimize debris and sand in the waste snow collected for disposal. The waste snow is discharged to a tidal portion of Boothbay Harbor below the normal low water line that is influenced by an approximately 7-foot vertical tidal cycle.

3. CONDITIONS OF PERMIT

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. §469 states, "*all estuarine and marine waters lying within the boundaries of the State and which are not otherwise classified are Class SB waters.*" The tidewaters of Boothbay Harbor at the point of discharge is not otherwise classified and is therefore a Class SB water. Maine law, 38 M.R.S.A. §465-B(2) describes the standards for Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS

The *State of Maine 2004 Integrated Water Quality Monitoring and Assessment Report*, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the marine and estuarine waters at Boothbay Harbor (Waterbody ID #730-9) as, "*Category 2: Estuarine and Marine Waters Attaining Some Designated Uses – Insufficient Information for Other Uses.*" Attainment in this context refers to the designated uses of recreation in and on the water and the harvesting of shellfish. The Department has no information at this time that the snow dumping activities performed by the Town cause or contribute to non-attainment of the standards for Class SB waters.

In addition, all estuarine and marine waters of the State are listed as, "*Category 4-B-3: Estuarine and Marine Waters Impaired by Atmospheric Deposition of Mercury*" and "*Category 5-D: Estuarine and Maine Waters Impaired by Legacy Pollutants.*" Impairment in this context refers to the estuarine and marine waters partially supporting the designated use of fishing and harvesting of shellfish due to elevated levels of mercury, PCBs, dioxin, and other persistent bioaccumulating substances in tissues of some fish and in lobster tomalley. Pursuant to Maine law, 38 M.R.S.A. §420(1-B)(B), "*a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11.*" Department rule Chapter 519, *Interim Effluent Limitations and Controls for the Discharge of Mercury*, states, "This rule does not apply to the following categories of licensees: combined sewer overflows, snow dumps, pesticide applications, and over board discharges licensed pursuant to 38 MRSA §413." Therefore, the Town's snow dump is not subject to the imposition of mercury limitations.

Currently, the Maine Department of Marine Resources shellfish harvesting area #C23 is closed to the harvesting of shellfish based on ambient water quality data, which indicate the harvesting area does not meet the standards in the National Shellfish Sanitation Program. The shellfish closure area is identified on the map included as Fact Sheet Attachment A. The Department does not have any information that the discharge of waste snow by the Town causes or contributes to the non-attainment of the standards for Class SB waters.

6. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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 tidewaters of Boothbay Harbor to meet standards for Class SB classification.

7. PUBLIC COMMENTS

Public notice of this application was made in the *Boothbay Register* newspaper on or about November 30, 2006. The Department receives public comments on an application until the date a final agency action is taken on the 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.

8. DEPARTMENT CONTACTS

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

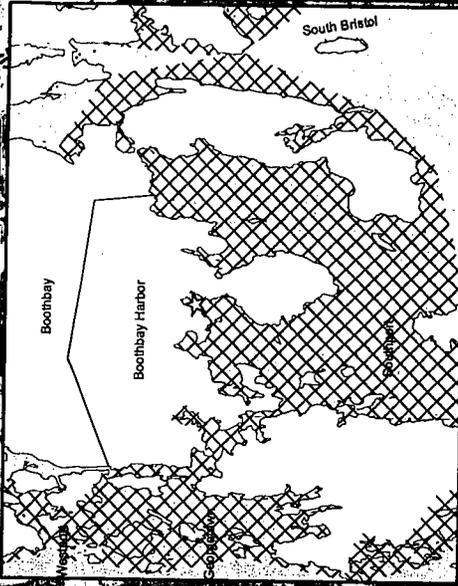
William F. Hinkel
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7659

9. RESPONSE TO COMMENTS

During the period of December 12, 2006 through January 11, 2007, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to the Town for the proposed discharge. The Department received no significant comments on the proposed draft permit; therefore, a response to comments was not prepared.

ATTACHMENT A

Regional Map Inset



Legend

☆ Wastewater_Outfalls

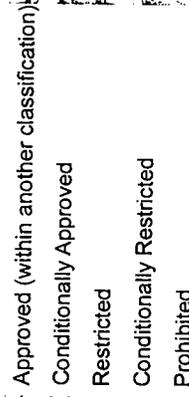
Coastal Waters

Coastal Class



Shellfish_Bed_Closures

CLASS



Boothbay Harbor
Snow Dump at
Municipal Parking Lot
#ME0036340

Boothbay Harbor, Class SB
DMR Shellfish
Closure Area C23

Foot Bridge



0 125 250 500 Feet

Boothbay Harbor, Maine

Map created by Maine DEP
October 18, 2006



