



STATE OF MAINE  
Department of Environmental Protection

Paul R. Lepage  
GOVERNOR

Patricia  
COMMISSIONER

W Aho

February 8, 2012

Mr. Greg Lambert  
Cooke Aquaculture USA Inc.  
P. O. Box 380  
Oquossoc, ME. 04964

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0110116  
Maine Waste Discharge License (WDL) Application #W004701-6F-F-T  
**Final Permit/License Transfer - Oquossoc Hatchery**

Dear Mr. Lambert:

Enclosed please find a copy of your **final** MEPDES permit/WDL **transfer** which was approved by the Department of Environmental Protection. You must follow the conditions in the permit 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 (207) 287-7693.

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Wood".

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

Enc.

cc: Matt Young, DEP/EMRO  
Sandy Mojica, USEPA



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

**DEPARTMENT ORDER**

**IN THE MATTER OF**

COOKE AQUACULTURE USA INC.	)	MAINE POLLUTANT DISCHARGE
RANGELEY, FRANKLIN COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
FISH HATCHERY	)	AND
W004701-6F-F-T	)	WASTE DISCHARGE LICENSE
ME0110116	)	<b>TRANSFER</b>
<b>APPROVAL</b>		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and Maine Law 38 M.R.S.A., Section 414-A et. seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of COOKE AQUACULTURE USA INC. (Cooke/permittee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On November 23, 2011, Cooke submitted an application to the Department for the transfer of Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0110116/ Maine Waste Discharge License (WDL) #W004701-6F-E-R, (permit hereinafter) issued on October 15, 2010, to Atlantic Salmon of Maine Limited Liability Company for a five-year term. The permit authorized the discharge of up to 12 million gallons per day (MGD) of treated fish hatchery and fish rearing waste waters to the Rangeley River, Class A, in Rangeley, Maine. The permit is due to expire on October 15, 2015.

Cooke has been duly qualified by the Maine Secretary of State to be in good standing and authorizes the corporation to conduct business under the laws of the State of Maine as of the date of this transfer. The permittee has submitted information demonstrating that it has legal title, right, and or interest in the facility. The permittee has demonstrated that it possesses the financial capacity and technical ability to operate the facility in compliance with the terms and conditions of the October 15, 2015, MEPDES Permit / Maine WDL.

**CONCLUSIONS**

Based on the above Findings of Fact, the Department CONCLUDES that COOKE AQUACULTURE USA INC. has demonstrated it has title, right and or interest in the facility as well as the technical ability and the financial capacity to comply with all conditions of Maine Pollutant Discharge Elimination System Permit #ME0110116/ Maine Waste Discharge License #W004701-6F-E-R, dated October 15, 2010, and to satisfy all applicable statutory and regulatory criteria.

**ACTION**

THEREFORE, the Department APPROVES the above noted application of COOKE AQUACULTURE USA INC. , SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations including:

1. The applicant shall abide by the terms and conditions of MEPDES permit #ME0110116/WDL #W004701-6F-E-R, dated October 15, 2010, a copy attached.
2. This permit transfer becomes effective upon the date of signature below, however, MEPDES permit #ME0110116/WDL #W004701-6F-F-R issued on October 15, 2010 expires on October 15, 2015. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the permit, the terms and conditions of the MEPDES permit #ME0110116/WDL #W004701-6F-E-R 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

Date of initial receipt of application: November 23, 2011

Date of application acceptance: November 28, 2011

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



# DEP INFORMATION SHEET

## Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

### SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### **LEGAL REFERENCES**

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

#### **HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD**

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

#### **WHAT YOUR APPEAL PAPERWORK MUST CONTAIN**

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

#### **WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD**

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

## **II. APPEALS TO MAINE SUPERIOR COURT**

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

#### **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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**Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.**

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