



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

February 17, 2015

Mr. P.J. Perinno, Esq.
Chapter 7 Trustee, c/o Perkins Thompson, P.A.
One Canal Plaza, P.O. Box 426
Portland, ME. 04112-0426
e-mail: sdoil@perkinsthompson.com

RE: **Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0000175**
Maine Waste Discharge License (WDL) Application #W002228-5N-I-M
Former Great Northern Mill – East Operation
Final Permit Modification

Dear Mr. Perinno:

Enclosed please find a copy of your **final MEPDES permit and Maine WDL modification** which was approved by the Department of Environmental Protection. Please read this permit/license modification 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,

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

Enc.

cc: Tanya Hovell, DEP/EMRO
Sandy Mojica, USEPA
Olga Vergara, USEPA
Marelyn Vega, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.
web site: www.maine.gov/dep

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) 764-6477 FAX: (207) 764-15



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

DEPARTMENT ORDER

IN THE MATTER OF

GNP PARENT, LLC)	MAINE POLLUTANT DISCHARGE
CHAPTER 7 TRUSTEE OF THE BANKRUPTCY)	ELIMINATION SYSTEM PERMIT
ESTATE OF GNP EAST, INC and GNP MAINE)	
HOLDINGS, LLC)	AND
EAST MILLINOCKET, PENOBSCOT COUNTY)	WASTE DISCHARGE LICENSE
N/F GREAT NORTHERN WASTE WATER)	
TREATMENT FACILITY - EAST OPERATION)	
ME0000175)	
W002228-5N-I-M)	
	APPROVAL	MODIFICATION

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 the application of GNP PARENT, LLC and CHAPTER 7 TRUSTEE OF THE BANKRUPTCY ESTATE OF GNP EAST, INC and GNP MAINE HOLDINGS, LLC d/b/a GREAT NORTHERN PAPER COMPANY acting on behalf of those entities (collectively permittees hereinafter) to modify combination Maine Pollutant Discharge Elimination System (MEPDES) permit ME0000175/Maine Waste Discharge License (WDL) W002228-5N-B-R (permit hereinafter) issued in the name of Katahdin Paper Company LLC on May 26, 2011, for a five-year term. The permit was subsequently transferred from Katahdin Paper Company LLC to co-permittee's GNP Parent LLC and GNP East Inc. on September 21, 2011. With its supportive data, agency review comments, and other related material on file, the Department FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Given the permanent shutdown of the mill, the permittees are requesting the following modifications to the May 26, 2011, permit.

Outfall #001 (Secondary treated waste waters)

1. Reduce the monthly average flow limitation from 33 million gallons per day (MGD) to 1.0 MGD given all process waste waters and miscellaneous internal waste water streams associated with the mill operations have been eliminated. The only two major waste streams being conveyed to the mill's waste water treatment facility are primary treatment residential and commercial waste waters generated within the Town of East Millinocket and landfill leachate from the former Dolby landfill that is currently owned and operated by the State of Maine.

APPLICATION SUMMARY (cont'd)

Outfall 001 (Secondary treated waste water) (cont'd)

2. Reduce the monitoring frequencies for biochemical oxygen demand (BOD) and total suspended solids (TSS) from 1/Day to 1/Week given the relative size of the treatment facility and nature of the waste streams being treated.
3. Delete the temperature limitations and monitoring requirements given thermal waste streams associated with the former mill operations have been eliminated.
4. Delete the total phosphorus limitations and monitoring requirements given the major waste stream(s) contributing to the discharge of total phosphorus have been eliminated with the shutdown of the mill operations.
5. Delete the limitations and monitoring requirements for total copper and total lead as the discharge no longer has a reasonable potential to exceed acute and or chronic ambient water quality criteria for either parameter due to the significant increases in the acute and chronic dilution factors. With a reduction in the flow limit to 1.0 MGD, the acute dilution factor increases from 39:1 to 1,307:1 and the chronic dilution factor increases from 43:1 to 1,440:1.
6. Delete all surveillance and screening level monitoring requirements for whole effluent toxicity (WET), analytical chemistry and priority pollutant testing pursuant to 06-096 CMR Chapter 530(2)(D).

Outfall #002 (Turbine condenser cooling water)

7. Delete all limitations and monitoring requirements for this outfall as the thermal waste stream associated with the former mill operations have been eliminated.

Outfall 010 (Administrative outfall)

8. Delete the seasonal limitations and reporting requirements for river temperature increase (RTI) as the thermal waste streams associated with the former mill operations have been eliminated.

Special Condition G – Treatment Plant Operator

9. Modify the operator certification requirements from a Grade V to a Grade III pursuant to 06-096 CMR Chapter 531(2)(D) given the complexity and the degree of skill to operate the waste water treatment facility have been reduced.

APPLICATION SUMMARY (cont'd)

Special Condition H – River Temperature Increase (RTI)

10. Delete the seasonal requirement to calculate and report RTI as the thermal waste streams associated with the former mill operations have been eliminated.

Special Condition J – Annual Ambient Water Quality Monitoring

11. Delete the seasonal requirement to participate in the ambient water quality monitoring of the Penobscot River as the waste streams associated with the discharge of total phosphorus have been eliminated with the shutdown of the mill.

MODIFICATIONS GRANTED/DENIED

Given the permanent shutdown of the mill operations, the modifications requested by the permittees are acceptable to the Department. In addition to the modification requests by the permittees, the Department is initiating the following minor revisions to the permit to simplify reporting requirements and be consistent with other MEPDES permits.

Outfall 001 (Secondary treated waste water)

1. Modifying the pH range limitation from 5.0 – 9.0 standard units to 6.0 – 9.0 standard units. The range of 5.0 – 9.0 standards units is a best practicable treatment (BPT) limitation established in National Effluent Guidelines (NEGs) found at 40 CFR Part 430 – *Pulp, Paper and Paperboard Manufacturing Point Source Category*. Given pulp and paper manufacturing has been eliminated, 06-096 CMR Chapter 525(1)(III)(c) establishes BPT as a range of 6.0 – 9.0 standard units.
2. Reducing the monitoring frequency for pH from continuous to 1/Week to be consistent with monitoring frequency reductions for BOD & TSS and changing the sample type from recorder to grab given the sampling frequency reduction.
3. Incorporating the average and maximum concentration limits (4.5 ng/L and 6.8 ng/L respectively) for total mercury that were originally established in a May 23, 2000 permit modification. As a result, the language in Special Condition I, *Mercury*, of the May 26, 2011, permit has been established as a footnote for Outfall 001 rather than a stand-alone Special Condition.
4. Establishing a daily maximum BPT concentration limitation of 1.0 mg/L for total residual chlorine if the permittees find it is necessary to seasonally disinfect the discharge with chlorine based compounds.

CONCLUSIONS

BASED on the findings in Application Summary section of this modification 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 national resource, that water quality will be maintained and protected;
 - (c) 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 application of GNP PARENT, LLC and CHAPTER 7 TRUSTEE OF THE BANKRUPTCY ESTATE OF GNP EAST, INC and GNP MAINE HOLDINGS, LLC, acting on behalf of those entities, requesting modifications to combination MEPDES permit ME0000175/WDL W002228-5N-B-R issued in the name of Katahdin Paper Company, LLC on May 26, 2011, and transferred to co-permittee's GNP Parent, LLC and GNP East, Inc. on September 21, 2011, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits," revised July 1, 2002, copy attached to ME0000175/WDL W002228-5N-B-R issued by the Department on May 26, 2011.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. This permit modification becomes effective upon the date of signature below and expires at midnight on May 26, 2016. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit modification, the terms and conditions of this permit modification 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)].

DONE AND DATED AT AUGUSTA, MAINE, THIS 2ND DAY OF March, 2015.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
for Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application December 23, 2014

Date of application acceptance December 29, 2014

Date filed with Board of Environmental Protection _____

This Order prepared by Gregg Wood, Bureau of Land & Water Quality
ME0000175 MR 2015 2/17/15

Filed
MAR 03 2015
State of Maine Board of Environmental Protection

SPECIAL CONDITION

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- The permittees are authorized to discharge secondary treated waste waters from **OUTFALL #001** to the West Branch of the Penobscot River. Such discharges shall be limited and monitored by the permittees as specified below. The italicized numeric values in brackets in the table below and the tables that follow are not limitations but are code numbers used by Department personnel to code Discharge Monitoring Reports (DMR's).

Effluent Characteristic	Discharge Limitations					Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Process Flow (MGD) [50050]	1.0 MGD[03]	Report MGD[03]	---	---	---	Continuous [99/99]	Recorder[RC]
<i>BOD₅</i> [00310] June 1 – September 30	10,580 lbs/day	18,980 lbs/day	---	---	---	1/Week	Composite
October 1 – May 31	11,556 lbs/day [26]	22,208 lbs/day [26]	---	---	---	1/Week [01/07]	Composite [24]
<i>TSS</i> [00530] June 1 – September 30	11,760 #/day	18,880 #/day	---	---	---	1/Week	Composite
October 1 – May 31	17,179 #/day [26]	31,945 #/day [26]	---	---	---	1/Week [01/07]	Composite [24]
<i>E. coli Bacteria</i> ⁽¹⁾ [31633] (May 15 – September 30)	---	---	126/100 ml [13]	---	949/100 ml [13]	1/Week [01/07]	Grab [GR]
pH (Std. Unit) [00400]	---	---	---	---	6.0 – 9.0 SU [12]	1/Week [01/07]	Grab [GR]
Mercury (Total) ⁽²⁾ [71900]	---	---	4.5 ng/L [3M]	---	6.8 ng/L [3M]	1/Year [01/YR]	Grab [GR]
Total Residual Chlorine ⁽³⁾ [50060]	---	---	---	---	1.0 mg/L [19]	1/Week [01/07]	Grab [GR]

SPECIAL CONDITIONS

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

Outfall #001 - Secondary treated waste waters

Footnotes:

Sampling - Sampling and analysis must be conducted in accordance with; a) methods approved in 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. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

- (1) ***E. coli* bacteria** - Limits are seasonal and apply between May 15 and September 30 of each calendar year. The Department reserves the right to require disinfection on a year-round basis to protect the health and welfare of the public. The monthly average limitation is a geometric mean limitation and shall be calculated and reported as such.
- (2) **Mercury** - All mercury sampling (1/Year) required by this permit or required to determine compliance with interim limitations established pursuant to Department rule Chapter 519, shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analysis shall be conducted in accordance with EPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment A, *Effluent Mercury Test Report***, of this permit modification for the Department's form for reporting mercury test results.
- (3) **Total residual chlorine** - - Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittees shall utilize approved test methods that are capable of bracketing the limitations in this permit.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam, or floating solids at any time which would impair the uses designated for 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 uses designated for the classification of the receiving waters.
3. The effluent shall not cause visible discoloration or turbidity in the receiving water which would impair the uses designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of the 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.

C. AUTHORIZED DISCHARGES

The permittees are authorized to discharge only in accordance with; 1) the permittee's General Application for Waste Discharge Permit modification, accepted for processing on December 29, 2014; 2) the terms and conditions of this permit modification, and 3) only from Outfall #001. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

D. NOTIFICATION REQUIREMENT

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

1. Any substantial change (realized or anticipated) in the volume or character of pollutants being introduced into the waste water collection and treatment system.
2. For the purposes of this section, adequate notice shall include information on:
 - a. The quality and quantity of waste water introduced to the waste water collection and treatment system; and
 - b. Any anticipated change in the quality and quantity of the waste water to be discharged from the treatment system.

SPECIAL CONDITIONS

E. OPERATION & MAINTENANCE (O&M) PLAN

The waste water treatment facility at the former East Millinocket mill shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the permittees 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 permittees 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 permittees shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the waste water 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 waste water treatment facility, the permittees shall submit the updated O&M Plan to their Department inspector for review and comment.

F. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a minimum of a **Grade III** certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S.A., Sections 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the permittee may engage the services of the contract operator.

G. ANNUAL 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING

By December 31 of each calendar year, the permittees shall provide the Department with a certification describing any of the following that have occurred since the effective date of this permit [*ICIS Code 75305*]: See **Attachment B** of this permit modification for an acceptable certification form to satisfy this Special Condition.

- (a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;
- (b) Changes in the operation of the treatment works that may increase the toxicity of the discharge; and
- (c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge.

SPECIAL CONDITIONS

G. ANNUAL 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING (cont'd)

In addition, in the comments section of the certification form, the permittees shall provide the Department with statements describing;

- (d) Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge.
- (e) Increases in the type or volume of hauled wastes accepted by the facility.

The Department reserves the right to reinstate annual (surveillance level) testing or other toxicity testing if new information becomes available that indicates the discharge may cause or have a reasonable potential to cause exceedences of ambient water quality criteria/thresholds.

H. COMMENCEMENT OF OPERATIONS

Should the permittees or a new owner propose to resume operation of the facility as an industrial or commercial facility, the permittees or new owner/operator must meet with the Department's permitting and compliance inspection staff at a **minimum of ninety (90) days prior to commencing production/operations** at the facility to review the applicability of the permit limitations, monitoring requirements, and reporting requirements. Should the Department determine that the proposed production/operations are significantly different from what was presented in past application materials or subsequently revised and included in permitting actions, the Department may require the applicable party to modify this permit or to file an application for a new permit. In addition, pursuant to Department Rule, Chapter 2, Rules Concerning the Processing of Applications and Other Administrative Matters, Section 21, License Renewals, Amendments and Transfers, Sub-section C, Transfers, a transferee must make application to the Department no later than two (2) weeks after transfer of ownership or entering into a lease agreement to conduct business on said property. Pending determination on the application for approval of transfer the transferee shall abide by all of the conditions of this permit, and is jointly or severally liable with the permittees for any violation of the terms and conditions thereof.

SPECIAL CONDITIONS

H. 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 a Department Regional Office such that the DMR's 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:

Maine Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Land & Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, ME. 04401

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the 15th day of the month following the completed reporting period. Hard Copy documentation submitted in support of the eDMR must be postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. Electronic documentation in support of the eDMR must be submitted not later than close of business on the 15th day of the month following the completed reporting period.

I. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results specified by 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 permittees, 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.

J. 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.

ATTACHMENT A

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

Purpose of this test: Initial limit determination
 Compliance monitoring for: year _____ calendar quarter _____
 Supplemental or extra test

SAMPLE COLLECTION INFORMATION

Sampling Date:	<input type="text"/> <input type="text"/> <input type="text"/>	Sampling time:	_____ AM/PM
	mm dd yy		
Sampling Location:	_____		
Weather Conditions:	_____		
Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:			
Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:			
Suspended Solids	_____ mg/L	Sample type:	_____ Grab (recommended) or _____ Composite

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory:	_____		
Date of analysis:	_____	Result:	_____ ng/L (PPT)
Please Enter Effluent Limits for your facility			
Effluent Limits:	Average = _____ ng/L	Maximum = _____ ng/L	
Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.			

CERTIFICATION

I certify that to the best of my knowledge the foregoing information is correct and representative of conditions at the time of sample collection. The sample for mercury was collected and analyzed using EPA Methods 1669 (clean sampling) and 1631 (trace level analysis) in accordance with instructions from the DEP.	
By: _____	Date: _____
Title: _____	

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT B



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
Commissioner

MEPDES# _____ Facility Name _____

Since the effective date of your permit, have there been;		NO	YES Describe in comments section
1	Increases in the number, types, and flows of industrial, commercial, or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic?	<input type="checkbox"/>	<input type="checkbox"/>
2	Changes in the condition or operations of the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
3	Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
4	Increases in the type or volume of hauled wastes accepted by the facility?	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS:

Name (printed): _____

Signature: _____ Date: _____

This document must be signed by the permittee or their legal representative.

This form may be used to meet the requirements of Chapter 530.2(D)(4). This Chapter requires all dischargers having waived or reduced toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative, the discharger may submit a signed letter containing the same information.

Scheduled Toxicity Testing for the next calendar year

Test Conducted	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
WET Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Priority Pollutant Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Analytical Chemistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other toxic parameters ¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please place an "X" in each of the boxes that apply to when you will be conducting any one of the three test types during the next calendar year.

¹ This only applies to parameters where testing is required at a rate less frequently than quarterly.

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

BANGOR
106 HOGAN ROAD, SUITE 6
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



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.
