



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

May 19, 2015

Mr. Benjiman Ward
Mill Manager
Expera Old Town LLC
P.O. Box 564, 24 Portland Street
Old Town, ME 04468
Ben.Ward@experaspecialty.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002020
Maine Waste Discharge License (WDL) Application #W002226-5N-L-M
Final Permit Modification

Dear Mr. Ward:

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 renewal 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 Lori Mitchell, DEP/CMRO
Sandy Mojica, USEPA Olga Vergara, USEPA Marelyn Vega, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
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PORTLAND, MAINE 04103
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

EXPERA OLD TOWN LLC) MAINE POLLUTANT DISCHARGE
PULP MANUFACTURER) ELIMINATION SYSTEM PERMIT
OLD TOWN, PENOBSCOT COUNTY, MAINE) AND
ME0002020) WASTE DISCHARGE LICENSE
W002226-5N-L-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 EXPERA OLD TOWN LLC (Expera/permittee hereinafter) with its supportive data, agency review comments, and other related material on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Expera has submitted an application to the Department to modify Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002020/Maine Waste Discharge License (WDL) #W002226-5N-H-R issued by the Department on May 19, 2011, for a five-year term. More specifically, Expera has requested an extension of the schedule from June 1, 2015 to June 1, 2016, to come into compliance with the seasonal (June 1 – September 30) water quality based mass limit for total phosphorus.

Expera purchased the Old Town mill from Red Shield Acquisition, LLC in November of 2014 and transferred all applicable permits issued by the Department in a Department Order issued on December 5, 2014. Expera has indicated the former owner of the mill completed the required phosphorus progress reports required by Special Condition G, *Schedule of Compliance – Total Phosphorus*, of the May 19, 2011, MEPDES permit, but the focus of waste water treatment plant operational and capital improvements were directed to structural repairs of the clarifiers, pursuant to an EPA Consent Agreement and Final Order (CWA-01-2012-0075) rather than address compliance with the monthly average total phosphorus limit of 102 lbs/day. Expera has proposed a new schedule to come into compliance with the mass limitation for total phosphorus on or before June 1, 2016.

MODIFICATIONS GRANTED/DENIED

Being that the compliance schedule established in the May 19, 2011, permit was outside of the control of Expera, the Department is granting Expera's request for a modification of the schedule of compliance. However, given the MEPDES permit expires on May 19, 2016, the final date for compliance with the total phosphorus must be established prior to the expiration date of the permit. Therefore, this modification is establishing the date in which Expera must be in compliance with the water quality based mass limit for total phosphorus on or before May 19, 2016.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated April 16, 2015, 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 EXPERA OLD TOWN LLC, to modify the schedule of compliance for a water quality based mass limit for total phosphorus, 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 MEPDES permit #ME0002020/WDL #W002226-5N-H-R issued by the Department on May 19, 2011.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. All terms and conditions of MEPDES permit #ME0002020/WDL #W002226-5N-H-R issued by the Department on May 19, 2011, not modified by this permitting action remain in effect and enforceable.
4. This modification becomes effective upon the date of signature below and expires on May 19, 2016. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the this permit, the terms and conditions of the this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [Maine Administrative Procedure Act, 5 M.R.S.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

PLEASE NOTE ATTACHED FACT SHEET FOR GUIDANCE ON APPEAL PROCEDURES

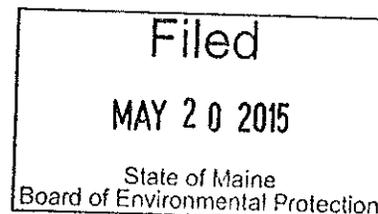
DONE AND DATED AT AUGUSTA, MAINE, THIS 19th DAY OF May, 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhny
For Patricia W. Aho, Commissioner

Date of initial receipt of application March 10, 2015.

Date of application acceptance March 10, 2015.



Date filed with Board of Environmental Protection _____
This order prepared by Gregg Wood, BUREAU OF LAND AND WATER QUALITY

SPECIAL CONDITIONS

A. OUTFALL #001 – Secondary treated waste waters (cont'd)

Effluent Characteristic	Discharge Limitations				Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Color ⁽¹⁾ [00084]	175 lbs/ton [42]	---	---	---	3/Week [03/07]	Composite [24]
Adsorbable Organic Halogen ⁽²⁾ (AOX) [03594]	989 #/Day [26]	1,510 #/Day [26]	---	---	1/Quarter [01/90]	Composite [24]
Total Phosphorus ⁽³⁾ [00665] Beginning upon permit issuance (June 1 – September 30)	Report lbs/day [26]	Report lbs/day [26]	Report ug/L [19]	Report ug/L [19]	1/Week [01/07]	Composite [24]
Total Phosphorus ⁽³⁾ [00665] Beginning May 19, 2016 (June 1 – September 30)	102 lbs/day [26]	Report lbs/day [26]	Report ug/L [19]	Report ug/L [19]	1/Week [01/07]	Composite [24]
Aluminum (Total) [01105]	198 lbs/Day [26]	---	1,946 ug/L [28]	---	1/Year [01/YR]	Composite [24]
Copper (Total) [01042]	9.9 lbs/Day [26]	8.0 lbs/Day [26]	98 ug/L [28]	79 ug/L [28]	1/Year [01/YR]	Composite [24]
Lead (Total) [01051]	0.53 lbs/Day [26]	---	5 ug/L [28]	---	1/Year [01/YR]	Composite [24]

Footnotes: See pages 10-13 of MEPDES permit #ME0002020/WDL #W002226-5N-H-R issued by the Department on May 19, 2011, for applicable footnotes.

SPECIAL CONDITIONS

G. SCHEDULE OF COMPLIANCE – TOTAL PHOSPHORUS

1. **On or before June 30, 2015, [ICIS Code 00201]** the permittee shall submit to the Department for review, a scope of work for improvements/optimization of the waste water treatment system to achieve compliance with the seasonal monthly average mass limit of 102 lbs/day for total phosphorus.
2. **On or before November 30, 2015, [ICIS Code 00899]** the permittee shall complete implementation/optimization improvements to the waste water treatment facility.
3. **On or before May 19, 2016, [ICIS Code 85208]** the permittee shall be in compliance with the seasonal monthly average mass limitation of 102 lbs/day for total phosphorus.

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

FACT SHEET

Date: April 16, 2015

PERMIT NUMBER: ME0002020

LICENSE NUMBER: W002226-5N-L-M

NAME AND ADDRESS OF APPLICANT

**EXPERA OLD TOWN LLC
P.O. Box 564
24 Portland Street
Old Town, ME. 04468**

COUNTY: Penobscot

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**OLD TOWN MILL
24 Portland Street
Old Town, ME. 04468**

RECEIVING WATER / CLASSIFICATION: Penobscot River/Class B

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Mr. Benjiman Ward

Mill Manager

(207) 827-0694

e-mail: Ben.Ward@experaspeciality.com

1. APPLICATION SUMMARY

Expera Old Town LLC (Expera/permittee hereinafter) has submitted an application to the Department to modify Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002020/Maine Waste Discharge License (WDL) #W002226-5N-H-R issued by the Department on May 19, 2011, for a five-year term. More specifically, Expera has requested an extension of the schedule to come into compliance with the water quality based mass limit for total phosphorus from June 1, 2015 to June 1, 2016.

2. MODIFICATIONS GRANTED/DENIED

Expera purchased the Old Town mill from Red Shield Acquisition, LLC in November of 2014 and transferred all applicable permits issued by the Department in a Department Order issued on December 5, 2014. Expera has indicated the former owner of the mill completed the required phosphorus progress reports required by Special Condition G, *Schedule of Compliance – Total Phosphorus*, of the May 19, 2011, MEPDES permit, but the focus of waste water treatment plant operational and capital improvements were directed to structural repairs of the clarifiers, pursuant to an EPA Consent Agreement and Final Order (CWA-01-2012-0075) rather than address compliance with the monthly average total phosphorus limit of 102 lbs/day. Expera has proposed a new schedule to come into compliance with the mass limitation for total phosphorus on or before June 1, 2016.

Being that the compliance schedule established in the May 16, 2011, permit was outside of the control of Expera, the Department is granting Expera's request for a modification of the schedule of compliance. However, given the MEPDES permit expires on May 19, 2016, the final date for compliance with the total phosphorus must be established prior to the expiration date of the permit. Therefore, this modification is establishing May 19, 2016, as the date in which Expera must be in compliance with the water quality based limit for total phosphorus.

3. RECEIVING WATER QUALITY STANDARDS

The Penobscot River Basin is located in the northeast part of the State of Maine and is the second largest river basin in New England. The main stem of the Penobscot River forms at the confluence of the East and West Branches in the Town of Medway, approximately 80 miles upriver from the head of tide in Bangor. The discharge points from the Red Shield mill are located just below the Great Works dam in Old Town, approximately 10 miles upriver from the head of tide. Major industrial dischargers upriver from the Red Shield mill include Lincoln Paper & Tissue on the main stem of the river in Lincoln and two Great Northern Paper Company mills in Millinocket and East Millinocket which discharge to the West Branch of the Penobscot River.

Maine law, 38 M.R.S.A. § 465(7)(A)(5) classifies the segment of the main stem of the Penobscot River from the West Enfield Dam, including the Stillwater Branch, to the Veazie dam, including all impoundments, as a Class B waterway.

Maine law, 38 M.R.S.A. § 465(7)(A)(6) classifies the segment of the main stem of the Penobscot River from the Veazie Dam, but not including the Veazie Dam, to the Maine Central Railroad bridge in Bangor-Brewer is classified as a Class B waterway. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

3. RECEIVING WATER STANDARDS (cont'd)

Maine law, 38 M.R.S.A. § 465(7)(A)(7) classifies the segment of the main stem of the Penobscot River from the Maine Central Railroad bridge in Bangor to a line extended in an east-west direction from a point 1.25 miles upstream from the confluence of Reeds Brook in Hampden is classified as a Class B waterway. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

Maine law, 38 M.R.S.A. §465(3) contains the classification standards for Class B as follows:

Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired.

The dissolved oxygen content of Class B waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures.

Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community.

4. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The Fact Sheet of the May 19, 2011, MEPDES permit contained the following italicized text regarding the establishment of a total phosphorus limitation

Total Phosphorus – Pursuant to the Department's waste load allocation report entitled, Penobscot River Phosphorus Waste Load Allocation, February 2011, this permitting action is establishing a seasonal (June 1- September 30) monthly average total phosphorus limit of 102 lbs/day based on the permitted flow of 24.4 MGD and a phosphorus concentration of 0.5 mg/L. The calculation is as follows:

$$24.4 \text{ MGD}(8.34 \text{ lbs/gal})(0.50 \text{ mg/L}) = 102 \text{ lbs/day}$$

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

In a letter dated March 21, 2011, the permittee stated it would not be able to meet the total phosphorus limit upon issuance of this permit. Nine sampling events during the summer of 2010 indicate the facility discharged in the range of 86 lbs/day to 203 lbs/day with an arithmetic mean of 161 lbs/day. Maine law, 38 M.R.S.A. §414-A(2) states in part, "A schedule of compliance may include interim and final dates for attainment of specific standards necessary to carry out the purposes of this subchapter and must be as short as possible, based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards."

Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, Schedules of Compliance, states in part, "...if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

- (i) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.*
- (ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date."*

In correspondence April 12, 2011, the permittee proposed a schedule that is acceptable to the Department and has been established as Special Condition G, Schedule of Compliance – Total Phosphorus of this permit.

Given Expera had not control over the schedule of compliance up until the purchase of the Old Town mill in November 2014, the Department is granting Expera's request to extend the schedule. Expera has proposed the following scope of work and schedule to come into compliance with the seasonal monthly average mass limit of 102 lbs/day for total phosphorus.

- a. Complete repairs to clarifiers as required by EPA agreement.
- b. Review historical total phosphorus data, current waste water treatment plant operations and perform and develop a gap analysis.
- c. By June 30, 2015, identify improvements/optimization for the secondary treatment system (e.g. aeration optimization, return activated flow, nutrient management, etc.) as necessary to achieve compliance with the total phosphorus limit.

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

- d. By November 30, 2015, establish a schedule, procure resources to implement improvements identified and complete improvements.
- e. Between December 1, 2015 and May 1, 2016, collect data to evaluate effectiveness of the improvements implemented.
- f. By May 19, 2016, be in compliance with the seasonal monthly average mass limit of 102 lbs/day for total phosphorus.

5. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily newspaper on or about March 26, 2015. 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.

6. DEPARTMENT CONTACTS

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

Gregg Wood
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) 287-3901
Electronic mail : gregg.wood@maine.gov

7. RESPONSE TO COMMENTS

During the period of April 16, 2015, through the date of issuance, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System permit modification to be issued to Expera. The Department did not receive any comments from the permittee, state, federal or other interested parties. Therefore, no response to comments have been prepared.



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.
