



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



PAUL MERCER
COMMISSIONER

January 3, 2017

Ms. Angela Cote
Town Administrative Assistant
Town of East Millinocket
53 Main Street
East Millinocket, ME. 04430
e-mail: acote@myfairpoint.net

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102881
Maine Waste Discharge License (WDL) #W009139-6D-C-M
Minor Revision

Dear Ms. Cote:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **minor revision** which was approved by the Department of Environmental Protection. Please read this minor revision and its attached conditions carefully. Compliance with this minor revision will protect water quality.

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. Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc: Clarissa Trasko, DEP/EMRO Lori Mitchell, DEP/CMRO
Sandy Mojica, USEPA Olga Vergara, USEPA Marelyn Vega, USEPA

AUGUSTA
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AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN EAST MILLINOCKET)	MAINE POLLUTANT DISCHARGE
EAST MILLINOCKET, MAINE)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS)	AND
ME0102881)	WASTE DISCHARGE LICENSE
W009139-6D-C-M)	MINOR REVISION
APPROVAL)	

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and *Conditions of licenses*, Maine Law 38 M.R.S., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) is initiating a minor revision of Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0000175/Maine Waste Discharge License (WDL) #W002228-5N-J-T issued to the TOWN OF EAST MILLINOCKET (Town/permittee hereinafter) on October 16, 2015, for a five-year term. With its supportive data, agency review comments, and other related materials on file, the Department FINDS THE FOLLOWING FACTS:

MODIFICATION SUMMARY

The October 16, 2015, permit authorized the discharge of up to 2.0 million gallons per day (MGD) of secondary treated waste water from a publicly owned treatment works (POTW) facility owned and operated by the Town of East Millinocket. The October 16, 2015, permit was transferred to the Town of East Millinocket from Katahdin Paper Company LLC, the former owner of the pulp and papermaking operation given the permanent closure of the mill operations. On January 20, 2016, the Department issued a permit modification of the October 16, 2015, permit with new permit numbers of ME0102881/W009139-6D-B-M. The modification was necessary to separate the historic discharge monitoring data generated by the Town East Millinocket as a municipal waste water treatment facility from data generated by the former Katahdin Paper Company LLC as an operational pulp and papermaking operation.

Special Condition A on page 6 of the October 16, 2015, permit states "Pursuant To Special Condition K, *Reopening of Permit For Modifications*, of this permit, surveillance level testing and or water quality based effluent limits (if applicable) will be established after the permittee has completed the screening level testing requirements of this permit and the Department has conducted a statistical evaluation in accordance with the statistical approach outlined in the Section 3.3.2 and Table 3-2 of USEPA's "*Technical Support Document for Water Quality-Based Toxics Control*" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.)."

On November 15, 2016, the Town of East Millinocket completed the screening level testing requirements. On January 3, 2017, the Department conducted a statistical evaluation on the screening level test results submitted and has determined there are no whole effluent toxicity (WET) test results or any analytical chemistry test results that exceed or have a reasonable potential to exceed ambient water quality thresholds or criteria.

MODIFICATION SUMMARY (cont'd)

06-096 CMR Chapter 530, §2(D)(3)(b) states "Dischargers in Levels III and IV may be waived from conducting surveillance level testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedance as calculated pursuant to section 3(E)." Therefore, the Town of East Millinocket, a Level III discharger, is waived from conducting surveillance level testing.

As a result of the waiver in testing, pursuant to 06-096 CMR Chapter 530, Special Condition M, *06-096 CMR 530(2)(D)(4) Statement For Reduced/Waived Toxics Testing*, has been incorporated into this minor revision.

CONCLUSIONS

BASED on the findings on page 1 of this minor revision, 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 MRSA 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 natural resource, that water quality will be maintained and protected;
 - (c) Where the standards of classification of the receiving water body are met or 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 a minor revision of MEPDES permit #ME0000175/WDL #W002228-5N-J-T issued to the TOWN OF EAST MILLINOCKET on October 16, 2015, for a five-year term, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations:

1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits," revised July 1, 2002, copy attached to MEPDES permit #ME0000175/WDL #W002228-5N-J-T issued on October 16, 2015.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions of MEPDES permit #ME0000175/WDL #W002228-5N-J-T issued on October 16, 2015, and any subsequent modifications thereof, not modified by this permitting action remain in effect and enforceable.
4. This minor revision becomes effective upon the date of signature below and expires at midnight on October 16, 2020. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all 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. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A) (effective October 19, 2015)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 4th DAY OF January 2017.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for Paul Mercer, Commissioner

Date of initiation: January 3, 2017

Date of acceptance: January 3, 2017

Filed
JAN 04 2017
State of Maine Board of Environmental Protection

Date filed with Board of Environmental Protection: _____

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

SCREENING LEVEL TESTING

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity(WET) ⁽⁶⁾						
<u>A-NOEL</u>						
<i>Ceriodaphnia dubia</i> [TDA3B]	---	---	---	Report% [23]	1/Year [01/YR]	Composite [24]
<i>Salvelinus fontinalis</i> [TDA6F]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
<u>C-NOEL</u>						
<i>Ceriodaphnia dubia</i> [TBP3B]	---	---	---	Report% [23]	1/Year [01/YR]	Composite [24]
<i>Salvelinus fontinalis</i> [TBQ6F]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Priority pollutant ^(7,9) [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]
Analytical chemistry ^(8,9) [51477]	---	---	---	Report ug/L [28]	1/Quarter [01/QO]	Composite/Grab [24]

Footnotes: See pages 5 and 6 of this minor revision for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

6. **Whole Effluent Toxicity (WET)** - Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the acute and chronic critical thresholds of 0.2% and 0.1% respectively), which provides an estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematic inverse of the applicable acute and chronic dilution factors of 655:1 and 720:1 respectively.
- a. **Screening-level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct screening level WET testing at a minimum frequency of once per year (1/Year). Acute and chronic tests must be conducted on the water flea (*Ceriodaphnia dubia*) and the brook trout (*Salvelinus fontinalis*). There must be at least six (6) months between sampling events.
- b. **Surveillance level testing** - Surveillance level WET testing is waived pursuant to 06-096 CMR Chapter 530.

WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedances of the critical acute and chronic water quality thresholds of 0.2% and 0.1% respectively. See **Attachment A** of the October 16, 2015, permit for a copy of the Department's WET report form.

Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following U.S.E.P.A. methods manuals as modified by Department protocol for the salmonid. See **Attachment B** of the October 16, 2015, permit for the Department protocol.

- a. Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to Freshwater Organisms, Fourth Edition, October 2002, EPA-821-R-02-013.
- b. Methods for Measuring the Acute Toxicity of Effluent and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, October 2002, EPA-821-R-02-012.

The permittee is also required to analyze the effluent for the parameters specified in the analytical chemistry section of the form in **Attachment C** of the October 16, 2015, permit each time a WET test is performed.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

7. **Analytical chemistry** – Refers to a suite of chemical tests in **Attachment C** of the permit.
 - a. **Screening level testing**- Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter) for four consecutive calendar quarters.
 - b. **Surveillance level testing** - Surveillance level analytical chemistry testing is waived pursuant to 06-096 CMR Chapter 530.
8. **Priority pollutant testing** – Priority pollutants are those parameters listed in **Attachment C** of the October 16, 2015, permit.
 - a. **Screening level testing** - Beginning upon issuance of this permit and lasting through four consecutive calendar quarters and every five years thereafter, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per year (1/Year). It is noted
 - b. **Surveillance level testing** - 06-096 CMR Chapter 530 does not require routine surveillance level priority pollutant testing during the term of this permit.

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

By **December 31** of each calendar year, the permittee must provide the Department with a certification describing any of the following that have occurred since the effective date of this permit [*ICIS Code 96299*]. See **Attachment D** of this minor revision 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;
- (c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge;
- ~~(d) Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge; and~~
- (e) Increases in the type or volume of transported (hailed) wastes accepted by the facility.

The Department may require that routine toxicity testing be re-instated if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

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.



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.
