



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

April 16, 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
Proposed Draft Permit Modification

Dear Mr. Ward:

Enclosed is a **proposed draft** MEPDES permit and Maine WDL (permit hereinafter) **modification** which the Department proposes to issue as a final document after opportunity for your review and comment. By transmittal of this letter you are provided with an opportunity to comment on the proposed draft permit and its conditions. If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies, as required by our regulations, and from any other parties who have notified the Department of their interest in this matter.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Monday, May 18, 2015**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

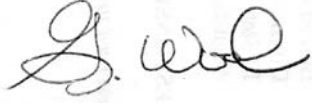
BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

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

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Wood". The signature is written in a cursive style with a large initial "G" and a long, sweeping underline.

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

Enc.

cc: Tanya Hovell, DEP/EMRO
Barry Mower, DEP/CMRO
Lori Mitchell, DEP/CMRO
David Webster, USEPA
David Pincumbe, USEPA
Alex Rosenberg, USEPA
Olga Vergara, USEPA
Marelyn Vega, USEPA
Maine Department of Marine Resources
Maine Department of Inland Fisheries & Wildlife
Ivy Frignoca, CLF
Daniel Kuznierz, PIN



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 ____ DAY OF _____, 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____

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] <i>Beginning upon permit issuance (June 1 – September 30)</i>	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 <i>(June 1 – September 30)</i>	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 ____]** 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 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)(4) classifies the segment of the main stem of the Penobscot River, from the confluence of the Piscataquis River, including the Stillwater Branch, to the Veazie dam, including all impoundments, as a Class B waterway.

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)

From the Maine Central Railroad bridge in Bangor to a line extended in an east-west direction 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.
6. 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

Reserved until the close of the formal 30-day public comment period.