



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR

GERALD D. REID  
COMMISSIONER

June 17, 2019

Mr. Dan Miller  
Decksz, LLC, dba Ocean Point Marina  
P.O. Box 513  
East Boothbay, ME. 04544  
e-mail: [info@oceanpointmarina.com](mailto:info@oceanpointmarina.com)

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit ME0037133  
Maine Waste Discharge License (WDL) Application #W002364-5C-F-R  
**Proposed Draft Permit**

Dear Mr. Miller:

Enclosed is a proposed draft MEPDES permit and Maine WDL (permit hereinafter) 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 (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). 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 new 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 **Tuesday, July 16, 2019**. 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 Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, ME. 04333

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

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 04679  
(207) 764-0477 FAX: (207) 760-3143

If you have any questions regarding the matter, please feel free to call me at 485-2404.

Sincerely,

A handwritten signature in cursive script, appearing to read "Irene Saumur".

Irene Saumur  
Division of Water Quality Management  
Bureau of Water Quality

Enc.

Ec: William Johnson, DEP/CMRO  
Lori Mitchell, DEP/CMRO  
Marilyn Vega, USEPA  
Shelly Puleo, USEPA  
[IFWEnvironmentalreview@maine.gov](mailto:IFWEnvironmentalreview@maine.gov)  
[EnvironmentalReview.DMR@maine.gov](mailto:EnvironmentalReview.DMR@maine.gov)



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

**DEPARTMENT ORDER**

**IN THE MATTER OF**

DECKSZ, LLC dba OCEAN POINT MARINA ) MAINE POLLUTANT DISCHARGE  
BOOTHBAY, LINCOLN COUNTY, MAINE ) ELIMINATION SYSTEM PERMIT  
OVERBOARD DISCHARGE ) AND  
ME0037133 ) WASTE DISCHARGE LICENSE  
W002364-5C-F-R ) **APPROVAL** ) **RENEWAL**

In compliance with the applicable provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et seq. and Maine Law 38 M.R.S. Section 414-A, *et seq.*, and applicable rules, the Department of Environmental Protection (Department) has considered the application of DECKSZ, LLC dba OCEAN POINT MARINA, (permittee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On May 8, 2019, the Department accepted as complete for processing an application from the permittee for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037133/Maine Waste Discharge License (WDL) #W002364-5C-E-R (permit) which was issued by the Department on July 16, 2014, for a five-year term. The 7/16/14 permit authorized the daily maximum discharge flow volume of 2,250 gallons per day (GPD) of secondary treated sanitary wastewater (Outfall #001) from a full-service marina, two efficiency apartments, and boat storage/maintenance facility to the Damariscotta River, Class SB, in Boothbay, Maine.

**PERMIT SUMMARY**

This permit is carrying forward all the terms and conditions of the previous permitting action and;

1. Establishing seasonal (April 15 – October 31<sup>st</sup>) monthly average and daily maximum water quality based limitations and monitoring requirements for enterococcus bacteria along with a compliance schedule to come into compliance with said limitations.
2. Increasing the seasonal discharge duration from May 1 – September 30, to April 15 – October 31, of each year.
3. Establishing a 1/Month monitoring and reporting requirement for BOD<sub>5</sub> and TSS percent removal, a 2/Month requirement for settleable solids and 1/Year for pH pursuant to 40 CFR §122.44 (i)(2).

## PERMIT SUMMARY (cont'd)

4. For calendar year 2019, increasing the timeframe when fecal coliform bacteria limits are in effect from May 15 – September 30 to April 15 – October 31 based on a revision to Maine law, 38 M.R.S. §465(3)(B) effective August 2, 2018. And, increasing the monitoring and reporting from 2/Month to 1/Week, and establishing more stringent limitations for fecal coliform bacteria based on the most current revisions to the National Shellfish Sanitation Program.

## CONCLUSIONS

BASED on the findings in the attached **Proposed Draft** Fact Sheet dated June 17, 2019, 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. §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 water 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 discharges will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S. §414-A(1)(D) and 414-A(1-B).
5. A non-discharging sub-surface waste water disposal system could not be installed in compliance with the Maine Subsurface Waste Water Disposal Rules at the time the renewal application was accepted for processing by the Department.
6. A publicly owned sewer line is not located on or abutting land owned or controlled by the permittee or is not available for the permittee's use.

**ACTION**

THEREFORE, the Department APPROVES the application of DECKSZ, LLC dba OCEAN POINT MARINA to seasonally (April 15 – October 31) discharge a daily maximum flow volume of 2,250 gallons per day of secondary treated sanitary wastewater (Outfall #001) to the Damariscotta River, Class SB, in Boothbay, Maine, as described above, SUBJECT TO ALL APPLICABLE STANDARDS AND REGULATIONS AND THE FOLLOWING CONDITIONS:

1. “*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits,*” revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. 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) (amended June 9, 2018)*]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
Gerald D. Reid, Commissioner

Date of initial receipt of application: May 8, 2019

Date of application acceptance: May 8, 2019

Date filed with Board of Environmental Protection \_\_\_\_\_

This Order prepared by Irene Saumur, BUREAU OF WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

Beginning the effective date of this permit, the permittee is authorized to discharge a seasonal (April 15<sup>th</sup> – October 31<sup>st</sup>) daily maximum of 2,250 gpd, secondary treated sanitary waste water from **Outfall #001** to the Damariscotta River Class SB, Boothbay. Such discharges shall be limited and monitored by the permittee as specified below<sup>(1)</sup>: **Sampling and submission of monthly Discharge Monitoring Reports (DMRs) is required between APRIL 15<sup>th</sup> – OCTOBER 31<sup>st</sup> of each year.**

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
<b>Flow</b> [50050]	---	---	2,250 gpd [07]	---	---	---	1/Month [99/99]	Metered [MT]
<b>BOD<sub>5</sub></b> [00310]	1.0 lbs/day [26]	1.0 lbs/day [26]	1.0 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [GR]
<b>BOD<sub>5</sub> Percent Removal<sup>(2)</sup></b> [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
<b>TSS</b> [00530]	1.0 lbs/day [26]	1.0 lbs/day [26]	1.0 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [GR]
<b>TSS Percent Removal<sup>(2)</sup></b> [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
<b>Settleable Solids</b> [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Month [01/30]	Grab [GR]
<b>Fecal Coliform Bacteria<sup>(3)</sup> ( April 15- October 31)</b> [31616]	---	---	---	14/100 ml <sup>(4)</sup> [13]	---	31/100 ml [13]	1/Week <sup>(6)</sup> [01/07]	Grab [GR]
<b>Enterococci Bacteria<sup>(3)</sup></b> [31639] (April 15 – October 31, beginning 2021)	---	---	---	8 CFU/100 mL <sup>(4)</sup> [13]	---	54 CFU /100 mL [13]	1/Week <sup>(6)</sup> [01/07]	Grab [GR]
<b>Total Residual Chlorine<sup>(5)</sup></b> [50060]	---	---	---	---	---	1.0 mg/L [19]	2/Month <sup>(6)</sup> [01/30]	Grab [GR]
<b>pH</b> [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	1/Year [1/YR]	Grab [GR]

Footnotes See Page 5 of this permit for applicable footnotes.

## SPECIAL CONDITIONS

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

#### Footnotes

1. **Sampling** – All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Sampling and analysis must be conducted in accordance with; a) methods approved by 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 must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for waste water testing. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S. § 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 April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
2. **Percent Removal** – The treatment facility shall maintain a minimum of 85 percent removal of both BOD<sub>5</sub> and TSS for all flows receiving secondary treatment. If the permittee is required to calculate percent removals but does not have access to an influent sampling location, the permittee shall use an assumed influent value of 286 mg/L and measured effluent concentration values.
3. **Bacteria Limits** – Fecal coliform bacteria limits and monitoring requirements are in effect between April 15<sup>th</sup> and October 31<sup>st</sup> of each year.
4. **Bacteria Reporting** – The monthly average fecal coliform and enterococcus bacteria limitations are geometric mean limitations and sample results must be reported as such. Sampling for enterococcus, fecal coliform bacteria and total residual chlorine must be conducted on the same days of the month.
5. **Total Residual Chlorine** – Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee must utilize approved test methods that are capable of bracketing the TRC limitation in this permit.
6. **2/Month** – There must be at least 10 days between sampling events when monitoring is on a 2/Month. Sampling for enterococcus, fecal coliform bacteria and total residual chlorine must be conducted on the same days of the month.

## **SPECIAL CONDITIONS**

### **B. ANNUAL DISCHARGE FEES**

Pursuant to Maine law, 38 M.R.S. §353-B, the permittee is required to pay an applicable annual fee for discharges authorized by this permit. Failure to pay an annual fee within 30 days of the billing date of a permit is sufficient grounds for accruing interest charges, penalties or revocation of the permit.

### **C. NARRATIVE EFFLUENT LIMITATIONS**

1. The effluent must 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 must 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 discharges must not cause visible discoloration or turbidity in the receiving waters which would impair the uses designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this 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.

### **D. TREATMENT PLANT OPERATOR**

The person who has the management responsibility over the treatment facility must hold a Maine **Grade II** (or higher) Waste Water Operator Certificate or must be a Maine Registered Professional Engineer pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S., 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.

### **E. AUTHORIZED DISCHARGES**

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing May 8, 2019; 2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of waste water from any other point source are not authorized under this permit, and must be reported in accordance with Standard Condition D(1)(F), *Twenty-four hour reporting*, of this permit.

## SPECIAL CONDITIONS

### F. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee must notify the Department of the following.

1. Any substantial change or proposed change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance.
2. For the purposes of this section, notice regarding substantial change must include information on:
  - (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

### G. REQUIREMENTS TO ELIMINATE OVERBOARD DISCHARGES

The owners of the overboard discharges subject to this permit are required to install a technologically proven alternative and properly abandon the overboard discharges when any of the following actions are initiated.

1. ***Transfer of Ownership of Property or Significant Action.*** Prior to transfer of ownership of property containing an overboard discharge (*i.e.*, change in the legal entity that owns a property, facility or structure that is the subject of a permit), the parties to the transfer shall determine the feasibility of technologically proven alternatives<sup>1</sup> to the overboard discharge. Prior to completing a significant action (*i.e.*, single construction project performed on a primary residence with an overboard discharge when the total material and labor cost of the construction project exceeds \$50,000), the owner shall determine the feasibility of technologically proven alternatives to the overboard discharge.
  - a) If an alternative to the overboard discharge is available, the alternative system must be installed within 90 days of property transfer or significant action, unless otherwise provided by *Waste discharge licenses*, 38 M.R.S. § 413(3-A).
  - b) If an alternative to the overboard discharge is not available, the new owner shall, no later than two weeks after any transfer of ownership, submit an application to the Department for transfer of this permit.

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<sup>1</sup> Feasibility of technologically proven alternatives are based on determinations by a licensed site evaluator's application of plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42.

## SPECIAL CONDITIONS

### G. REQUIREMENTS TO ELIMINATE OVERBOARD DISCHARGES (cont'd)

2. **Permit Renewal.** Waste Discharge Permits for overboard discharges are issued for a five-year term. The permittee shall submit a complete application for permit renewal prior to the expiration date of this permit to continue the discharge beyond the expiration date of this permit. If a technologically proven alternative system is available and;
  - a) The overboard discharge owner is eligible for grant funding<sup>2</sup>, the alternative system must be installed within 180 days of written notification from the Department, unless otherwise provided by *Conditions of licenses*, 38 M.R.S. § 414-A(1-B); or
  - b) The overboard discharge owner is not eligible for grant funding, the alternative system must be installed prior to the expiration date of this permit.
3. **Abandonment of Overboard Discharge.** When an overboard discharge is no longer necessary or is replaced by technologically proven alternative system, it must be properly abandoned within 90 days following the requirements of *Overboard discharges: licenses and abandonment*, 06-096 CMR 596(8), including submission of Overboard Discharge Abandonment Certification Form #DEPLW0653A.

### H. OPERATION & MAINTENANCE (O&M) PLAN

This facility must have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan must provide a systematic approach by which the permittee must 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 permittee 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 permittee must evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan must 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 permittee must submit the updated O&M Plan to their Department inspector for review and comment.

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<sup>2</sup> Grant eligibility is based on the cost-share schedule under *State contribution to residential overboard discharge replacement projects*, 38 M.R.S. § 411-A.

## **SPECIAL CONDITIONS**

### **I. SEPTIC TANKS**

1. Septic tanks and other treatment tanks must be regularly inspected (at least once per calendar year) and maintained to ensure that they are providing best practicable treatment. The permittee must maintain logs of inspections/maintenance that records the date, notes on observations, repairs conducted etc. The logs must be maintained on site at all times and made available to Department personnel upon request.
2. Tank contents should be removed whenever the sludge and scum occupies one-third of the tank's liquid capacity or whenever levels approach maximum design capacity. Following pumping, the tanks shall be checked for damage at key joints and the inlet and outlet baffles, and repaired promptly if damaged. The permittee must keep a pumping log including the date of pumping, quantity of material removed, name and number of licensed contractor, pumping frequency and other relevant observations.

### **J. MONITORING AND REPORTING**

#### Electronic Reporting

*NPDES Electronic Reporting*, 40 C.F.R. 127, requires MEPDES permit holders to submit monitoring results obtained during the previous month on an electronic discharge monitoring report to the regulatory agency utilizing the USEPA electronic system.

Electronic Discharge Monitoring Reports (DMRs) submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and
2. Submitted no later than **midnight on the 15<sup>th</sup> day of the month** following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR and must be submitted no later than midnight on the 15<sup>th</sup> day of the month following the completed reporting period.

### **K. REOPENING OF PERMIT FOR MODIFICATIONS**

Upon evaluation of the tests results or monitoring requirements specified in 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 any time and with notice to the permittee, 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 effluent or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

**SPECIAL CONDITIONS**

**L. 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.

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

**PROPOSED DRAFT FACT SHEET**

**June 17, 2019**

MEPDES PERMIT: **ME0037133**  
WASTE DISCHARGE LICENSE: **W002364-5C-F-R**

NAME AND ADDRESS OF APPLICANT:

**DECKSZ LLC. dba OCEAN POINT MARINA  
Attn: Mr. Dan Miller  
P.O Box 513  
East Boothbay, ME. 04544**

COUNTY: **Lincoln County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:  
**216 Ocean Point Rd.  
Boothbay, Maine 04544**

RECEIVING WATER / CLASSIFICATION: **Damariscotta River/Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Dan Miller  
(207) 633-0773  
[info@oceanpointmarina.com](mailto:info@oceanpointmarina.com)**

CONTRACT OPERATOR: **Coastal Wastewater Service  
P.O. Box 92  
Thomaston, ME 04861  
(207) 354-6359, (207) 975-3370**

**1. APPLICATION SUMMARY**

- a. Application: On May 8, 2019, the Department accepted as complete for processing an application from the permittee for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037133/Maine Waste Discharge License (WDL) #W002364-5C-E-R (permit) which was issued by the Department on July 16, 2014, for a five-year term. The 7/16/14 permit authorized the daily maximum discharge flow volume of 2,250 gallons per day (GPD) of secondary treated sanitary wastewater (Outfall #001) to the Damariscotta River, Class SB, in Boothbay, Maine. See **Attachment A** for a location map of the facility.

## 1. APPLICATION SUMMARY (cont'd)

- b. Source description & Waste water treatment: Wastewater is generated by a full-service marina with showers and 75 slips, 15 moorings, ten employees, a boat rental shop with two employees, a one-bedroom apartment, a two-bedroom apartment, a post office with two employees, a 150 seat even facility and a laundry with one washing machine. The waste water receives secondary level treatment via a mechanical wastewater treatment system designed to treat a combined maximum daily flow of 3,000 gallons and consists of a mechanical "Cromaglass C-30" wastewater treatment unit and chlorine contact chamber. The treated effluent is discharged to the Damariscotta River via a single 6-inch outfall pipe without a diffuser, six (6) feet below the mean low water line. The permittee has a contract with Coastal Wastewater Service for the maintenance, servicing, testing and inspection of the wastewater treatment system.
- c. Replacement Options: In May of 2003, the Maine State Legislature adopted several amendments to the licensing of overboard discharges and the Department revised its rule, Chapter 596, *Overboard Discharges: Licensing and Abandonment*, accordingly. One of the amendments in the revised rule requires OBD owners who are applying to the Department to renew their OBD licenses to hire a licensed site evaluator (LSE) to determine whether or not it is technologically feasible to replace the existing waste water treatment system prior to license renewal and install a replacement system within 180 days if grant money is offered by the Department. The permittee has provided the Department with a site evaluation performed by LSE Matthew Logan, dated 1/14/09, indicating there is no adequate area available on site to replace the existing system with a subsurface disposal system.

## 2. PERMIT SUMMARY

- a. Terms and Conditions – This permitting action is carrying forward all the terms and conditions of the previous permit except that this permitting action is;
  1. Establishing seasonal (April 15 – October 31<sup>st</sup>) monthly average and daily maximum water quality based limitations and monitoring requirements for enterococcus bacteria along with a compliance schedule to come into compliance with said limitations.
  2. Increasing the seasonal discharge duration from May 1 – September 30, to April 15 – October 31, of each year to be consistent with duration dates of other seasonally restricted overboard discharges.
  3. Establishing a 1/Month monitoring and reporting requirement for BOD<sub>5</sub> and TSS percent removal, a 2/Month requirement for settleable solids and 1/Year for pH pursuant to 40 CFR §122.44 (i)(2).
  4. For calendar year 2019, increasing the timeframe when fecal coliform bacteria limits are in effect from May 15 – September 30 to April 15 – October 31 based on a revision to Maine law, 38 M.R.S. §465(3)(B) effective August 2, 2018. And, increasing the monitoring and reporting from 2/Month to 1/Week, and establishing more stringent limitations for fecal coliform bacteria based on the most current revisions to the National Shellfish Sanitation Program.

## 2. PERMIT SUMMARY (cont'd)

- b. Facility History – This section provides a summary of the most significant historical events for Deckzs, LLC. dba Ocean Point Marina.

*May 17, 1985* – The Department issued WDL #W002364-41-A-N to Stevens Associates for a three year term.

*December 9, 1994* - The Department issued WDL #W002364-5C-B-R to Charles and Barbara Jeness d/b/a C & B Marina for a ten-year term.

*June 6, 2002* - The Department issued WDL #W002364-5C-C-R transferring the license to Decksz, LLC. dba Ocean Point Marina for a five-year term.

*May 19, 2009* – The Department issued combination MEPDES permit ME0037133 / WDL #W002364-5C-D-R to Decksz, LLC. dba Ocean Point Marina, for a five-year term.

*July 16, 2014* - The Department issued combination MEPDES permit ME0037133 / WDL #W002364-5C-E-R to Decksz, LLC. dba Ocean Point Marina, for a five-year term.

*May 8, 2019* – Decksz, LLC. dba Ocean Point Marina, submitted a timely application for renewal of combination MEPDES permit ME0037133 / WDL #W002364-5C-E-R. The application was accepted for processing on May 8, 2019 and assigned WDL #W002364-5C-F-R.

## 3. CONDITIONS OF PERMIT

Maine law, 38 M.R.S §414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of Best Practicable Treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S §420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

#### **4. RECEIVING WATER QUALITY STANDARDS**

Maine law, 38 M.R.S. §469(3-A) classifies the Damariscotta River at the point of discharge as a Class SB waterbody. Maine law, 38 M.R.S. §465-B(2) contains the standards for Class SB water bodies.

*Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.*

*The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.*

*Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.*

#### **5. RECEIVING WATER QUALITY CONDITIONS**

*The 2016 Integrated Water Quality Monitoring and Assessment Report published by the Department pursuant to Section 305(b) of the Federal Water Pollution Control Act lists the Damariscotta River, Boothbay as:*

*Category 2: Estuarine and Marine Waters Attaining Some Designated Uses – Insufficient Information for Other Uses. Impairment in this context is in regard to the designated use of harvesting of shellfish which is prohibited due to overboard discharges and boats.*

## 5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The Maine Department of Marine Resources (MDMR) shellfish harvesting Area 23-C, Lower Damariscotta River (Boothbay and South Bristol) is closed to the harvesting of shellfish. See **Attachment B** of this Fact Sheet for Area 23-C. The MDMR closes or restricts areas based on ambient water quality data that indicate the area did not meet or marginally met the standards in the National Shellfish Sanitation Program. In addition, MDMR closes areas by default in the vicinity of outfall pipes associated with treated sanitary waste water discharges in the event of a failure of the disinfection system. Area 23-C remains closed as of the date of this permitting action.

Category 5-D: *Estuarine and Marine Waters Impaired by Legacy Pollutants*. All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D, partially supporting fishing ("shellfish" consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomalley.

Department rule Chapter 519, *Interim Effluent Limitations and Controls for the Discharge of Mercury*, establishes controls on the discharge of mercury to the surface waters of the State through interim effluent limits and implementation of pollution prevention plans. However, Section 1(A)(1) of the Chapter 519 rule states in part:

*"This rule applies to all persons licensed or permitted pursuant to 38 M.R.S. §413 to discharge pollutants to the surface waters of the State except as described below. For the purposes of this rule, the term licensee also means permittee.*

*Categorical exclusions. This rule does not apply to the following categories of licensees: combined sewer overflows, snow dumps, pesticide applications, and over board discharges licensed pursuant to 38 M.R.S. §413. [emphasis added] Except, however, specific members of these categories may be required by the department to comply with this rule on a case by case basis..."*

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Best Practicable Treatment (BPT) - The Department will find that the discharge meets the requirements of best practicable treatment pursuant to 38 M.R.S. § 414-A(1-B) for purposes of permitting when it finds that there are no technologically proven alternative methods of wastewater disposal consistent with the plumbing code adopted by the Department of Health and Human Services pursuant to Title 22, section 42 that will not result in an overboard discharge. Pursuant to *Overboard Discharges: Licensing and Abandonment*, 06-096 CMR 596(9), *Criteria and Standards for Waste Discharge Licenses* 06-096 CMR 524(2) (effective January 12, 2001) and 06-096 CMR 525(3)(III), BPT for overboard discharges is secondary treatment.

**6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**

- b. Flow: This permitting action is carrying forward the established monthly average flow limitation of 2,250 gallons per day (gpd) from Outfall #1 based on the design flow for the mechanical treatment system and the established 1/Month monitoring frequency.

A review of the daily maximum discharge flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for the seasonal period May – August for calendar years 2015 – 2018 indicates values have been reported as follows:

**Flow (DMRs = 20)**

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Daily Maximum	2,250	195 – 1,094	541

- c. Dilution Factors – The Department established applicable dilution factors for the discharge in accordance with freshwater protocols established in Department Rule Chapter 530, *Surface Water Toxics Control Program*, October 2005. With a permitted flow of 2,250 gpd and based on the location and configuration of the outfall structure, the Department has made a best professional judgment that dilution factors are follows:

Acute = 400:1                      Chronic = 1300:1                      Harmonic Mean<sup>(1)</sup> = 3900

(1) Pursuant to Department rule Chapter 530, “*Surface Water Toxics Control Program*”, §4(2)(c), the harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by a factor of three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication “*Technical Support Document for Water Quality-based Toxics Control*” (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

- d. Biochemical Oxygen Demand (BOD<sub>5</sub>) and Total Suspended Solids (TSS): This permitting action carries forward the technology based monthly average, weekly, average and daily maximum BOD<sub>5</sub> and TSS concentration limits of 30 mg/L, 45 mg/L and 50 mg/L, respectively along with a minimum monitoring frequency requirement of 1/Month. The monthly average and weekly average concentration limits are based on secondary treatment requirements as defined in Department rule, 06-096 CMR Chapter 525(3) (III) and the daily maximum concentration limit of 50 mg/L is based on a best professional judgment by the Department of best practicable treatment (BPT).

Also carried forward are the mass limitations for BOD<sub>5</sub> and TSS as required by Department rule Chapter 523, *Waste Discharge License Conditions*, Section 6, *Calculating NPDES permit conditions*, sub-section f(1) which states that, “*all pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass....*” The monthly average, weekly average and daily maximum BOD<sub>5</sub> and TSS mass limitations must be based on calculations using the monthly average permitted flow limitation for the facility of 2,250 gpd (0.00225 MGD) and the applicable concentration limits as follows:

**6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**

Monthly Average Mass Limit:  $(30 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.00225\text{MGD}) = 1.0 \text{ lbs/day}$

Weekly Average Mass Limit:  $(45 \text{ mg/L})(8.34 \text{ lbs./day})(0.00225\text{MGD}) = 1.0 \text{ lbs/day}$

Daily Maximum Mass Limit:  $(50 \text{ mg/L})(8.34 \text{ lbs./day})(0.00225\text{MGD}) = 1.0 \text{ lbs/day}$

A review of the daily maximum discharge flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for the seasonal period May – August for calendar years 2015 – 2018 indicates values have been reported as follows:

**BOD concentration (DMRs = 17)**

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	1 – 27	4.6
Weekly Average	45	2 – 27	5.8
Daily Maximum	50	1 – 27	4.6

**TSS concentration (DMRs = 17)**

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	1 - 48	14.2
Weekly Average	45	1 - 48	14.2
Daily Maximum	50	1 - 48	14.2

**BOD Mass (DMRs = 17)**

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	1.0	0	0
Weekly Average	1.0	0	0
Daily Maximum	1.0	1	1

**TSS Mass (DMRs = 17)**

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	1.0	0 - 1	<1
Weekly Average	1.0	0	0
Daily Maximum	1.0	1	1

This permitting action carries forward the requirement for a minimum of 85% removal of BOD<sub>5</sub> and TSS and establishes a 1/Month monitoring and reporting frequency pursuant to Chapter 525(3)(III)(a)(3) and (b)(3) of the Department’s rules and 40 CFR §122.44 (i)(2), which states in part; requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

**6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**

- e. Settleable Solids: This permitting action carries forward the daily maximum BPT concentration limit of 0.3 ml/L along with a monitoring requirement of 1/month.

A review of the daily maximum discharge flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for the seasonal period May – August for calendar years 2015 – 2018 indicates values have been reported as follows:

**SS concentration (DMRs = 18)**

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	0.10	0.10

- f. Fecal coliform bacteria: The previous permitting action established seasonal (May 15<sup>th</sup> – September 30<sup>th</sup>) water quality based monthly average concentration limit for fecal coliform bacteria of 15 colony form units (CFU)/100 ml (geometric mean) and a daily maximum of 50 CFU/100mL (instantaneous level) along with a 2/Month monitoring frequency. The water quality based limits were consistent with the limits associated with the 2003 National Shellfish Sanitation Program (NSSP). This permitting action is expanding the timeframe when fecal coliform bacteria limits are in effect from May 15 – September 30 to April 15 – October 31 for the calendar year 2019, based on a revision to Maine law 38 M.R.S. §465(3)(B) effective August 2, 2018. In addition, this permit is reducing the limits to 14 CFU/100 ml as a monthly and 34 CFU/100ml as a daily maximum to be consistent with the 2017 revisions to the NSSP. Based on comments received from the USEPA, fecal coliform limitations need to be imposed on a year-round basis to protect the designated use of shellfish harvesting, a year-round use. The Department understands that the facility is only open seasonally and not subject to year-round reporting.

A review of the daily maximum discharge flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for the seasonal period May – August for calendar years 2015 – 2018 indicates values have been reported as follows:

**Fecal coliform bacteria (DMRS = 17)**

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	15	0 – 2,048	164
Daily Maximum	50	0 – 2,419	228

It is noted that there were 5 excursions during the reporting period. As a result, the Department is increasing the monitoring frequency from 2/Month to 1/Week.

**6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**

- g. Enterococcus bacteria – The previous permit did not establish limitations or monitoring requirements for enterococcus bacteria. Based on comments received from the USEPA, enterococcus bacteria limitations are necessary to protect the designation use of recreation in and on the water, a seasonal use. Pursuant to Maine law 38 M.R.S. §465(3)(B) effective August 2, 2018, monthly and daily maximum water quality based limits of 8 CFU/100 ml and 54 CFU/100ml, respectively. The limitations are seasonal and apply from April 15<sup>th</sup> – October 31<sup>st</sup> of each year and the monitoring frequency is being established at 1/Week to be consistent with the monitoring frequency for fecal coliform bacteria.
- h. Total Residual Chlorine (TRC): The previous permitting action established a daily maximum TRC technology-based concentration limit of 1.0 mg/L and a monitoring frequency of twice per week (2/Month). Limitations on TRC are specified to ensure that ambient water quality standards are maintained at all times of the year and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or BPT-based limit. With dilution factors as determined in Section 6C of this fact sheet, end-of-pipe (EOP) water quality-based concentration thresholds for TRC may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated Acute Limit	Calculated Chronic Limit
0.013 mg/L	0.0075 mg/L	(A) 400:1 (C) 1300:1	5.2 mg/L	9.8 mg/L

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that need to dechlorinate the discharge in order to meet water quality-based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. Based on the calculated acute and chronic total residual chlorine limits, the permittee does not need to dechlorinate the effluent prior to discharge in order to consistently achieve compliance with the calculated water quality-based thresholds. Therefore, this permitting action is carrying forward the technology-based daily maximum TRC concentration limitation of 1.0 mg/L and reporting frequency that is applicable whenever elemental chlorine or chlorine based compounds are used as chlorine is toxic year-round and not seasonally.

A review of the daily maximum discharge flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for the seasonal period May – August for calendar years 2015 – 2018 indicates values have been reported as follows:

**Total residual chlorine (DMRs 18)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.5 – 0.6	0.6

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

- h. pH: The previous permitting action established a BPT pH range limit of 6.0 – 9.0 standard units (SU), pursuant to Department rule found at Chapter 525(3)(III) (c) but did not establish any monitoring frequency requirements to determine compliance. This permitting action establishes a 1/YR monitoring and reporting frequency pursuant to 40 CFR §122.44 (i)(2), which states in part; requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.
- i. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: Maine law, 38 M.R.S., §414-A and §420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* (toxics rule) sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

Chapter 530 Section (2)(A) specifies the dischargers subject to the rule as, “...*all licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedences of narrative or numerical water quality criteria.*”

Chapter 530 Section 2.A specifies the criteria for exemption of certain discharges from toxics testing as follows:

- (1) *Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility;*
- (2) *Discharges from residential overboard discharge systems; or*
- (3) *Discharges from combined sewer overflow discharge points, provided the owner of the sewerage system is conducting or participating in a discharge abatement program.*

## **6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**

The permittee's facility is exempt from the Chapter 530 requirements as it permitted to discharge less than 50,000 gpd, the chronic dilution factor is greater than 50:1 (Department BPJ) and the waste water has domestic-like characteristics. However, should there be a substantial change in the characteristics of the discharge in the future; the Department may reopen this permit pursuant to Special Condition I, *Reopening of Permit for Modifications*, to incorporate the applicable whole effluent toxicity (WET), priority pollutant or analytical testing requirements cited above.

## **7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY**

As permitted, the Department has determined the existing water uses will be maintained and protected, and that the discharge as permitted will not cause or contribute to the failure of the water body to meet standards for Class SB waters.

## **8. PUBLIC COMMENTS**

Public notice of this application was made in *The Boothbay Register* newspaper on or about April 15, 2019. The Department receives public comments on an application until the date a final agency action is taken on the 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.

## **9. DEPARTMENT CONTACTS**

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

Irene Saumur  
Division of Water Quality Management  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 485-2404  
e-mail: [irene.saumur@maine.gov](mailto:irene.saumur@maine.gov)

## **10. RESPONSE TO COMMENTS**

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