



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

DEPARTMENT ORDER

IN THE MATTER OF

EAGLE CREEK MADISON HYDRO, LLC.) MAINE POLLUTANT DISCHARGE
MADISON, SOMERSET COUNTY, MAINE) ELIMINATION SYSTEM PERMIT
COOLING WATER DISCHARGE) AND
ABENAKI HYDRO PROJECT)
ME0036595) WASTE DISCHARGE LICENSE
W008063-5R-H-R APPROVAL) RENEWAL

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-C, *Water Classification Program*, 38 M.R.S. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, *et seq.*, and applicable rules of the Department of Environmental Protection (Department), the Department has considered the application of EAGLE CREEK MADISON HYDRO, LLC. (permittee), for the Abenaki Hydro Project, with its supportive data, agency review comments, and other related materials on file, and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On December 14, 2023 the Department accepted as complete for processing, a renewal application from the permittee for Waste Discharge License (WDL) W008063-5R-G-R/Maine Pollutant Discharge Elimination System (MEPDES) permit ME0036595, which was issued on June 6, 2019 for a five-year term and authorized the daily discharge of 172,800 gallons per day of non-contact cooling water from the Abenaki Hydro Project to the Kennebec River, Class B, in Madison, Maine.

PERMIT SUMMARY

This permit carries forward all the terms and conditions established in the previous permit.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 23, 2026, 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, *Classification of Maine Waters*, 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 met or, 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 as defined in *Conditions of Licenses*, 38 M.R.S. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the application of EAGLE CREEK MADISON HYDRO, LLC., to discharge 172,800 gallons per day of non-contact cooling water at a temperature not to exceed 95 degrees Fahrenheit from the Abenaki Hydro Project to the Kennebec River, Class B, SUBJECT TO THE FOLLOWING 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.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit becomes effective upon the date of signature below and expires 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 terms and conditions of 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. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR ch. 2(21)(A)* (last amended September 15, 2024)]

DONE AND DATED AT AUGUSTA, MAINE, THIS _____ DAY OF _____, 2026.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
For MELANIE LOYZIM, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application _____ December 1, 2023

Date of application acceptance _____ December 14, 2023

This Order prepared by rod Robert, Bureau of Water Quality

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The discharge is limited to a flow of 172,800 gallons per day and a daily maximum temperature of 95°F.
2. All miscellaneous facility leakage and lubrication waters that may become contaminated with oil or grease are subject to Best Management Practices (BMPs) designed to prevent the release of contaminants to the waters of the State. **Within 90 days of permit issuance**, the permittee must develop and update BMPs and must make the BMPs available in writing for the Department to review and comment upon request. BMPs must consist of, but not be limited to, the following, as appropriate: development and implementation of a spill prevention plan; use of oil absorbent pads or booms and/or physical berms to contain spills or leaks of hydraulic and lubrication oils; and the treatment of water collected in floor drains and sumps through an oil/grease trap or oil-water separator. Where bearing cooling water is used, BMPs must include the maintenance of a written log or record of bearing oil levels and maintenance activities. Where floor drains and sumps are used, BMPs must include (1) written procedures for the cleaning and maintenance of any oil-grease trap, oil skimmer or oil-water separator and (2) maintenance of a written log or record of visual inspections of sumps for oil and grease and of actions taken to prevent the discharge of oil or grease from the facility.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the usages designated for the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.
3. The permittee must not discharge effluent that imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsuitable for the designated uses and characteristics ascribed to their classification.
4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification or lowers the existing quality of any body of water if the existing quality is higher than the classification.

SPECIAL CONDITIONS

C. 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 on December 14, 2023) the terms and conditions of this permit; and 3) only from the Abenaki Hydro Project. Discharges of wastewater from any other point source(s) are not authorized under this permit and must be reported in accordance with D(1)(f), *Twenty-four hour reporting*, of this permit.

D. NOTIFICATION REQUIREMENT

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

1. Any substantial 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, adequate notice must include information on:
 - (a) The quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
 - (b) Any anticipated impact of the change in the quantity or quality of the wastewater to be discharged from the treatment system.

E. REOPENING OF PERMIT FOR MODIFICATIONS

In accordance with *Conditions of Licenses*, 38 M.R.S. ,§ 414-A(5) and upon evaluation of the test results in the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the District, modify this permit to: (1) include effluent limitations necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

SPECIAL CONDITIONS

F. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit will remain in full force and effect, and will be construed and enforced in all respects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

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

FACT SHEET

DATE: **January 23, 2026**

PERMIT NUMBER: **ME0036595**

LICENSE NUMBER: **W008063-5R-H-R**

NAME AND ADDRESS OF APPLICANT:

**EAGLE CREEK MADISON HYDRO, LLC.
325 COLUMBIA TURNPIKE, SUITE 302
FLORHAM PARK, NEW JERSEY 07932**

NAME, ADDRESS, AND COUNTY WHERE DISCHARGE(S) OCCUR(S):

**ABENAKI HYDRO PROJECT
42 KENNEBEC STREET
MADISON, ME 04950
SOMERSET COUNTY**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**ERICA LIGUORI
EAGLE CREEK MADISON HYDRO, LLC.
325 COLUMBIA TURNPIKE, SUITE 302
FLORHAM PARK, NEW JERSEY 07932 (973)-998-8169
EMAIL: erica.liguori@eaglecreekre.com**

1. APPLICATION SUMMARY

On December 14, 2023 the Department accepted as complete for processing, a renewal application from the permittee for Waste Discharge License (WDL) W008063-5R-G-R/Maine Pollutant Discharge Elimination System (MEPDES) permit ME0036595, which was issued on June 6, 2019 for a five-year term and authorized the daily discharge of 172,800 gallons per day of non-contact cooling water from the Abenaki Hydro Project to the Kennebec River, Class B, in Madison, Maine.

2. PERMIT SUMMARY

- a. History: The most current relevant regulatory actions include:

February 23, 1999 – The Department issued WDL #W008063-5R-A-N to Madison Paper Industries for a five-year term.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permitting program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program, and MEPDES permit #ME0036595 has been utilized for this facility. On March 26, 2011, the USEPA authorized the Department to administer the MEPDES program in Indian territories of the Penobscot Nation and Passamaquoddy Tribe.

April 1, 2004 – The Department issued combination MEPDES permit #ME0036609/WDL #W008062-5R-B-R for a five-year term.

June 22, 2007 – The Department issued a modification to increase the daily maximum flow limit to 155,000 gpd due to the increase in generating capacity from the installation of turbine generator #6.

April 15, 2009 – The Department issued combination MEPDES permit #ME0036595/WDL #W008063-5R-D-R for a five-year term.

June 10, 2014 – The Department issued combination MEPDES permit ME0036595/WDL #W008063-5R-E-R to Madison Paper for a five-year term.

May 19, 2017 – The June 10, 2014, MEPDES permit ME0036595/WDL #W008063-5R-F-R-T was transferred from Madison Paper Industries to Eagle Creek Madison Hydro, LLC.

June 6, 2019 – The Department issued combination MEPDES permit #ME0036595/WDL #W008063-5R-G-R for a five-year term.

December 1, 2023 – Eagle Creek Madison Hydro, LLC., submitted a timely and complete application for renewal of MEPDES permit #ME0036595/#W008063-5R-G-R. The application was accepted as complete for processing on December 14, 2023, and designated WDL #W008063-5R-H-R.

2. PERMIT SUMMARY (cont'd)

b. Source Description: The source of the discharge is a hydroelectric generating facility. The discharge consists of non-contact cooling water. The discharge flow rate is variable, depending on cooling needs, up to a maximum flow of 172,800 gallons per day (maximum cooling system capacity, based on information from applicant). The discharge occurs directly from the tailrace. A map showing the location of the facility is included as Fact Sheet **Attachment A**.

Other miscellaneous discharges from the facility consist of shaft lubrication waters, foundation leakage waters, and/or leakage from wicket gates and other equipment. In the event of unplanned leaks, spills or equipment failure, these discharges may become contaminated with hydraulic or lubrication oil and grease.

3. CONDITIONS OF PERMITS

Conditions of licenses, 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, *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and *Surface Water Toxics Control Program*, 06-096 CMR ch. 530 (effective March 21, 2012) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR ch. 584 (last amended February 16, 2020), 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

Classification of major river basins, 38 M.R.S., § 467(4) (A)(9) classifies the Kennebec River from the Route 201A bridge in Anson-Madison to the Fairfield-Skowhegan boundary, including all impoundments, which includes the reach of river subject to Abenaki's discharge, as Class B waters. *Standards for classification of fresh surface waters*, 38 M.R.S., § 465(3) describes the standards for Class B waters as follows:

3. Class B waters. Class B shall be the 3rd highest classification.

A. 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.

*B. Class B waters must be of sufficient quality to support all aquatic species indigenous to those waters without detrimental changes in the resident biological community. 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 one-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between April 15th and October 31st, the number of *Escherichia coli* bacteria in these waters may not exceed a geometric mean of 64 CFU or MPN per 100 milliliters over a 90-day interval or 236 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval.*

C. 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.

(1-A) For the purpose of allowing the discharge of aquatic pesticides or chemicals approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency to restore resident biological communities affected by an invasive species, the department may find that the discharged effluent will not cause adverse impact to aquatic life as long as the materials and methods used do not cause a significant loss of any nontarget species and allow restoration of nontarget species. The department may find that an unavoidable, temporary loss of nontarget species does not constitute a significant loss of nontarget species.

4. RECEIVING WATER QUALITY STANDARDS (cont'd)

(2) 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 aquatic 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 subparagraph, 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 CONDITIONS

The State of Maine Department of Environmental Protection 2018/2020/2022 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the Kennebec River (main stem, from Carrabassett River to Fairfield-Skowhegan boundary (excluding Mill Stream, Norridgewock, to the Weston Dam) (Assessment Unit ID ME0103000306_338R_04) which includes the receiving water at the point of discharge as: Category 4-B “Rivers and Streams Impaired by Pollutants-Pollution Control Requirements Reasonably Expected to Result in Attainment” for dioxin (including 2,3,7,8-TCDD). This segment is also listed as Category 5-D: “Rivers and Streams Impaired by Legacy Pollutants” for polychlorinated biphenyls.

The Report also lists all of Maine’s fresh waters as Category 4-A: Rivers and Streams Impaired by Atmospheric Deposition of Mercury. Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, “All freshwaters are listed in Category 4-A (TMDL Completed) due to US EPA approval of a Regional Mercury TMDL in December 2007. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Health and Human Services decided to establish a statewide advisory recommending limits on consumption for all freshwater fish. Maine has instituted statewide programs for removal and reduction of mercury sources.” The Department has no information that the discharge from Eagle Creek Abenaki Hydro Project, as permitted, causes or contributes to non-attainment of applicable water quality standards.

6. REGULATIONS RELATING TO TEMPERATURE

Regulations Relating to Temperature 06-096 CMR 582 (last amended May 4, 1996), states that no discharge must cause the ambient temperature of any freshwater body to be raised more than 5 degrees Fahrenheit, nor must any discharge cause the temperature of any waters to exceed the USEPA national ambient water quality criteria established to protect all species of fish that are indigenous to the receiving waters. When the ambient temperature of any body of water naturally exceeds the applicable USEPA criteria, no thermal discharge may be allowed which alone or in combination with other discharges would raise the ambient temperature of the receiving water more than 0.5 degrees Fahrenheit.

7. ANTI-BACKSLIDING

Federal regulation 40 CFR, §122(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that except for provisions specified in the regulation, effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit. Applicable exceptions include (1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation and (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance. All limitations in this permit are equally or more stringent than those in the previous permit.

8. ANTI-DEGRADATION

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause, contribute, or have a reasonable potential to cause or contribute to the failure of the water body to meet standards for Class B classification.

9. ISSUANCE OF NON-CONTACT COOLING WATER PERMITS

Although a MEPDES permit for a facility with regulated discharges would typically also need to include requirements under CWA § 316(b) for any associated cooling water intake structures (CWISs), Maine DEP's permits are not required to do so under the CWA because Maine DEP has not yet been authorized to administer CWA § 316(b). In 2001, EPA Region 1 authorized the Maine DEP to administer the NPDES permit program, except for the permitting of CWISs under CWA § 316(b). Because the state had not yet adopted legislation or regulations to implement CWA § 316(b) at the time of the Region's approval, Region 1 approved Maine's NPDES program on a partial, phased basis pursuant to CWA § 402(n)(4). Until this remaining portion of NPDES authorization is complete, Region 1 is responsible for making NPDES permitting determinations under CWA § 316(b), including where CWA § 316(b) applies and, in the situations where it applies, the resultant permit conditions. Until the state is authorized to implement CWA § 316(b), Maine DEP issues NPDES permits addressing all issues other than § 316(b) and Region 1 is responsible for issuing supplemental permits to address CWISs under § 316(b), if § 316(b) is applicable. Furthermore, there is no expressed or implied legal requirement that the permits be issued jointly or simultaneously.

10. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The USEPA has not promulgated National Effluent Guidelines for non-contact cooling water. The Department has made a Best Professional Judgment (BPJ) determination that BPT for hydro project cooling water is no treatment, unless treatment to control thermal loading is determined to be required.

The Department has calculated that, under worst case conditions of maximum cooling water flow (172,800 GPD), maximum cooling water temperature (assumed 95 degrees Fahrenheit, based on staff analysis of industry data), and 7Q10 receiving water flow (2,287 cfs), and without any treatment to reduce thermal loading, the discharge will raise the ambient temperature of the receiving water by only 2/100th of a degree Fahrenheit. Therefore, the Department has determined that neither effluent limitations nor monitoring requirements are necessary to ensure that applicable water quality standards are met.

However, the discharge will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of Licenses*, 38 M.R.S. § 414-A(1)(D). Within 90 days of permit issuance, the permittee must develop BMPs and must make the BMPs available in writing for the Department to review and comment upon request.

11. PUBLIC COMMENTS

Public notice of this application was made in the Morning Sentinel on or about December 1, 2023. 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 must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR ch.522 (effective January 12, 2001).

12. DEPARTMENT CONTACTS

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

13. RESPONSE TO COMMENTS

Reserved until the end of the thirty-day comment period.

ATTACHMENT A

