



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
COMMISSIONER

May 15, 2026

Mr. Scott Larson
Ocean Gate Inn, LLC.
162 Dogfish Head Road
Southport, Maine 04576
e-mail: slarson@compassroseevents.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) # ME0036862
Maine Waste Discharge License (WDL) Application # W001013-5C-H-T
Final License Transfer

Dear Mr. Larson,

Enclosed, please find a copy of your Maine Department of Environmental Protection approved final permit transfer. Please read the license and its attached conditions carefully. You must follow the conditions to satisfy the legal requirements. Any discharge not receiving adequate treatment is in violation of state law and is subject to enforcement action.

Persons aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled “*Appeals to the Board of Environmental Protection.*”

Order of Documents:

1. Cover letter
2. Transfer order
3. Updated Appeals Fact Sheet
4. 3/3/23 Transfer
5. 1/11/22 Permit

Should you have any questions regarding this matter, feel free to contact me at 207-248-2032 or grace.vierling@maine.gov.

Sincerely,

Grace Vierling
Division of Water Quality Management
Bureau of Water Quality

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 04769
(207) 764-0477 FAX: (207) 760-3143

Ocean Gate Inn

May 15, 2026

Page 2 of 2

Cc:

Laura Crossley, DEP

Megan Griffin, DEP

Lori Mitchell, DEP

Jim Crowley, Water Quality ME

Kathryn Rosenberg, EPA

Richard Carvalho, EPA

Michael Cobb, EPA



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER



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

DEPARTMENT ORDER IN THE MATTER OF

OCEAN GATE INN, LLC	)	PROTECTION AND IMPROVEMENT
SOUTHPORT,	)	OF WATERS
LINCOLN COUNTY, MAINE)	
OBD WASTEWATER DISPOSAL SYSTEM)	
ME0036862	)	WASTE DISCHARGE LICENSE
W001013-5C-H-T APPROVAL	)	TRANSFER

Pursuant to the provisions of 38 M.R.S., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (“Department”) has considered the application of The Ocean Gate Inn, LLC (“applicant”) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On April 22, 2026, the Department accepted as complete for processing an application for the transfer of MEPDES permit #ME0036862/ Maine Waste Discharge License (WDL) #W001013-5C-F-R, (“permit”) issued on January 11, 2022, to the Island Inn for a five-year term and transferred to Radify Southport, LLC on March 3, 2023. The 01/11/2022 permit and subsequent transfer authorized the seasonal discharge (April 1 – November 30) of 5,000 gallons per day (gpd) of secondary treated sanitary wastewater from The Ocean Gate Resort, Class SB waters, in Southport, Maine.

The applicant has been duly qualified by the Maine Secretary of State to be in good standing and authorized the corporation to conduct business under the laws of the State of Maine as of the date of this transfer. The applicant has submitted information demonstrating that it has legal title, right, and or interest in the facility and has provided a statement that it possesses the financial capacity and technical ability to operate the facility in compliance with the terms and conditions of the January 11, 2022, permit.

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CONCLUSIONS

BASED on the findings listed above on this permit transfer dated May 4, 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, 38 M.R.S. § 464(4)(F), will be met, in that:
 - (a) Existing 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) 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 waterbody, 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 the application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the above noted application of OCEAN GATE INN, LLC TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. MEPDES #ME0036862/WDL #W001053-5C-F-R, dated January 11, 2022, copy attached.
2. The attached Special Conditions, including the effluent limitations and monitoring requirements.
3. This license transfer becomes effective upon the date of signature below and expires at midnight on January 11, 2027, concurrent with permit #ME0036862/ #W001053-5C-F-R, dated January 11, 2022. If the renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of the 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 C.M.R. Ch. 2 § 21(A) (effective September 15, 2024)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES
DONE AND DATED AT AUGUSTA, MAINE, THIS 15 DAY OF MAY 2026.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: *Brian Kavanah*

for Melanie Loyzim, Commissioner

Date of initial receipt of application: April 16, 2026

Date of application acceptance: April 22, 2026

This Order was prepared by Grace Vierling, BUREAU OF WATER QUALITY



DEP INFORMATION SHEET

Appeals to the Board of Environmental Protection

Date: November 2024

Contact: Clerk.BEP@maine.gov or
(207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of: (1) a final license decision made by the Commissioner of the Department of Environmental Protection ("DEP"); or (2) an insurance claim-related decision ("Clean-up and Response Fund decision") made by the Commissioner or the Office of State Fire Marshal pursuant to [38 M.R.S. § 568-A](#).

Except as explained below, there are two methods available to an aggrieved person seeking to appeal a license decision made by the Commissioner or a Clean-up and Response Fund decision: (1) an administrative appeal before the Board of Environmental Protection ("Board"); or (2) a judicial appeal before Maine's Superior Court. An aggrieved person seeking review of a license decision or Clean-up and Response Fund decision made by the Board may seek judicial review in Maine's Superior Court.

An appeal of a license decision made by the DEP Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)), a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)), or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review the applicable rules and statutes, including the DEP's Chapter 2 rule, [Processing of Applications and Other Administrative Matters \(06-096 C.M.R. ch. 2\)](#); Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); and the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#).

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Within 30 calendar days of the date of: (1) a final license decision of the Commissioner; or (2) a Clean-up and Response Fund decision, an aggrieved person may appeal to the Board for review of that decision. "Aggrieved person" means any person whom the Board determines may suffer a particularized injury as a result of a Commissioner's license decision or a Clean-up and Response Fund decision. A complete appeal must be received by the Board no later than 5:00 p.m. on the 30th calendar day of the decision being appealed. With limited exception, untimely appeals will be dismissed.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail (e-mail) and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
Clerk.BEP@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee, if the appellant is not the licensee; and (3) if a hearing was held on the application, any intervenors in that hearing proceeding. For appeals of Clean-up and Response Fund decisions made by the State Fire Marshal, the appellant must also send a copy of the appeal to the State Fire Marshal. **Please contact the Board Clerk at clerk.bep@maine.gov or DEP staff at 207-287-7688 with questions or for contact information regarding a specific license or Clean-up and Response Fund decision.**

REQUIRED APPEAL CONTENTS

A written appeal must contain the information specified in Chapter 2, section 23(B) or section 24(B), as applicable, at the time the appeal is submitted. **Please carefully review these sections of Chapter 2**, which is available online at <https://www.maine.gov/sos/cec/rules/06/chaps06.htm>, or contact the Board Clerk to obtain a copy of the rule. Failure to comply with the content of appeal requirements may result in the appeal being dismissed pursuant to Chapter 2, section 23(C) or section 24(C).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with the administrative record.* Generally, the record on which the Board decides an appeal is limited to the record prepared by the agency in its review of the application, any supplemental evidence admitted to the record by the Board Chair and, if a hearing is held on the appeal, additional evidence admitted during the hearing. A person who seeks to appeal a decision to the Board is encouraged to contact the DEP (or State Fire Marshal for Clean-up and Response Fund decisions made by that agency) to inspect the record before filing an appeal.
2. *Be familiar with the applicable rules and laws.* An appellant is required to identify the licensing criterion or standard the appellant believes was not satisfied in issuing the decision, the bases of the objections or challenges, and the remedy sought. Prior to filing an appeal, review the decision being appealed to identify the rules and laws that are applicable to the decision. An appellant may contact the DEP or Board staff with any questions regarding the applicable rules and laws or the appeal procedure generally.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a separate stay of the decision is requested and granted (*see* Chapter 2, section 23(M)), the licensee may proceed with an approved project pending the outcome of the appeal. Any activity initiated in accordance with the approved license during the pendency of the appeal comes with the risk of not knowing the outcome of the appeal, including the possibility that the decision may be reversed or modified by the Board.
4. *Alternative dispute resolution.* If the appeal participants agree to use mediation or another form of alternative dispute resolution (“ADR”) to resolve the appeal and so notify the Board, the Board will not hear the matter until the conclusion of that effort, provided the participants engaged in the alternative dispute resolution demonstrate satisfactory progress toward resolving the issues. *See* Chapter 2, section 23(H) or contact the Board Executive Analyst (contact information below) for more information on the ADR provision.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of each appeal and develop a service list of appeal participants and any interested persons for use in the appeal proceeding. Electronic mail (e-mail) is the preferred method of communication during an appeal proceeding; however, the Board reserves the right to require paper copies of all filings. Once the Board Chair rules on the admissibility of all proposed supplemental evidence, the licensee (if the licensee is not the appellant) may respond to the merits of the appeal. Instructions specific to each appeal will be provided in correspondence from the Board Executive Analyst or Board Chair. Generally, once all filings in an appeal proceeding are complete, the DEP staff will assemble a packet of materials for the Board (Board packet), including a staff recommendation in the form of a proposed Board Order. Once available, appeal participants will receive a copy of the Board packet and an agenda with the meeting location and start time. Once finalized, the meeting agenda will be posted on the Board's webpage <https://www.maine.gov/dep/bep/index.html>. Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board. *See* Chapter 2, Section 23(I). The Board may affirm all or part of the decision under appeal; affirm all or part of the decision under appeal with modifications, or new or additional conditions; order a hearing to be held as expeditiously as possible; reverse the decision under appeal; or remand the decision to the Commissioner or State Fire Marshal, as applicable, for further proceedings.

II. JUDICIAL APPEALS

The filing of an appeal with the Board is not a prerequisite for the filing of a judicial appeal. Maine law generally allows aggrieved persons to appeal final license decisions to Maine's Superior Court (*see* [38 M.R.S. § 346\(1\)](#); [Chapter 2](#); [5 M.R.S. § 11001](#); and [M.R. Civ. P. 80C](#)). A judicial appeal by a party to the underlying proceeding must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other aggrieved person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. *See* 38 M.R.S. § 346(4), the Maine Administrative Procedure Act, statutes governing a particular license decision, and the Maine Rules of Civil Procedure for substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal procedure, for administrative appeals contact the Board Clerk at clerk.bep@maine.gov or 207-287-2811 or the Board Executive Analyst at bill.hinkel@maine.gov or 207-314-1458, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and rule provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal, and to comply with notice requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9061. This information sheet is not intended to supplant the parties' obligations to review and comply with all statutes and rules applicable to an appeal and insofar as there is any inconsistency between the information in this document and the applicable statutes and rules, the relevant statutes and rules apply.



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

March 6, 2023

Mr. John Faris
General Counsel
Radify Southport LLC
249 Main Avenue South, Suite 107
North Bend, WA. 98046
e-mail: john.faris@logecamps.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036862
Maine Waste Discharge License (WDL) #W001013-5C-G-T
Ocean Gate Inn
Final Permit Transfer

Dear Mr. Farris:

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

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-7823. Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

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

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc: Irene Saumur, Lori Mitchell, William Johnson, DEP/CMRO
Sandy Mojica, Nathan Chien, USEPA, Richard Carvalho, USEPA

AUGUSTA
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AUGUSTA, MAINE 04333-0017
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PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: August 2021

Contact: (207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#); and the DEP's [Rule Concerning the Processing of Applications and Other Administrative Matters \(Chapter 2\)](#), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.



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

IN THE MATTER OF

RADIFY SOUTHPORT LLC	)	MAINE POLLUTANT DISCHARGE
d/b/a/ OCEAN GATE INN	)	ELIMINATION SYSTEM PERMIT
SOUTHPORT, LINCOLN COUNTY, MAINE)	
OVERBOARD DISCHARGE	)	AND
ME0036862	)	WASTE DISCHARGE LICENSE
W001013-5C-G-T	)	TRANSFER
	APPROVAL	

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and Maine Law 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 RADIFY SOUTHPORT LLC, with their supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On January 3, 2023, Radify Southport LLC submitted an application to the Department for the transfer of Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0036862/ Maine Waste Discharge License (WDL) #W001013-5C-F-R, (permit hereinafter) issued on January 11, 2022 for a five-year term, to TWG Southport LLC d/b/a the Ocean Gate Resort The January 11, 2022 permit authorized the seasonal discharge (April 1st – November 30th) of no more than 5,000 gallons per day (gpd) of secondary treated wastewater from the Ocean Gate Resort to Townsend Gut, Class SB water, in Southport, Maine.

Radify Southport LLC have been duly qualified by the Maine Secretary of State to be in good standing and authorized the corporation to conduct business under the laws of the State of Maine as of the date of this transfer. Radify Southport LLC has submitted information demonstrating that it has legal title, right, and or interest in the facility and possess the financial capacity and technical ability to operate the facility in compliance with the terms and conditions of the January 11, 2022, MEPDES Permit/Maine WDL. See **Attachment A** of this transfer order for a copy of the January 11, 2022, MEPDES Permit #ME0036862/ Maine WDL #W001013-5C-F-R.

CONCLUSIONS

Based on the above Findings of Fact, the Department CONCLUDES that RADIFY SOUTHPORT LLC have demonstrated they have title, right and or interest in the facility as well as the technical ability and the financial capacity to comply with all conditions of MEPDES Permit #ME0036862/ Maine WDL #W001013-5C-F-R issued on January 11, 2022, and to satisfy all applicable statutory and regulatory criteria.

ACTION

THEREFORE, the Department APPROVES the above noted application of RADIFY SOUTHPORT LLC , SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations including:

1. The applicants must abide by the terms and conditions of MEPDES Permit #ME0036862/ Maine WDL #W001013-5C-F-R issued on January 11, 2022, a copy attached.
2. This permit transfer becomes effective upon the date of signature below. MEPDES Permit #ME0036862/ Maine WDL #W001013-5C-F-R issued on January 11, 2022, expires on January 11, 2027. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the permit, the terms and conditions of MEPDES Permit #ME0036862/ Maine WDL #W001013-5C-F-R issued on January 11, 2022 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) (last amended June 9, 2018)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE THIS 3 DAY OF March 2023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION.

BY: *Brian Kavanah*
For Melanie Loyzim, Commissioner

Date of initial receipt of application: January 3, 2023

Date of application acceptance: January 5, 2023

<p>FILED</p> <p>MAR 3, 2023</p> <p>State of Maine</p> <p>Board of Environmental Protection</p>

Date filed with Board of Environmental Protection _____

This Order prepared by Gregg Wood, BUREAU OF LAND AND WATER QUALITY

ATTACHMENT A



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

January 12, 2022

Thad Paul
TWG Southport, LLC
C/O Wardman Group
4200 Wisconsin Ave NW, #106 – 153
Washington, DC 20016

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036862
Maine Waste Discharge License (WDL) Application #W001013-5C-F-R
Final Permit/License

Dear Mr. Thad Paul,

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

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled “*Appealing a Commissioner’s Licensing Decision.*”

If you have any questions regarding the matter, please feel free to call me at 287-1298.

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

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

Sincerely,

Breanne Blaisdell
Division of Water Quality Management
Bureau of Water Quality

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 04769
(207) 764-0477 FAX: (207) 760-3143

Enc.

cc:

Cindy Dionne, MDEP
Bill Johnson, MDEP
Pamela Parker, MDEP
Tom Danielson, MDEP
Lori Mitchell, MDEP
Irene Saumur, MDEP
Sandy Mojica, USEPA
Nathan Chien, USEPA
Richard Carvalho, USEPA



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S. §§ 341-D(4) & 346; the *Maine Administrative Procedure Act*, 5 M.R.S. § 11001; and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time the appeal is submitted:

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452, or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.



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

**DEPARTMENT ORDER
IN THE MATTER OF**

TWG SOUTHPORT, LLC.	)	MAINE POLLUTANT DISCHARGE
d/b/a/ OCEAN GATE RESORT	)	ELIMINATION SYSTEM PERMIT
SOUTHPORT, LINCOLN COUNTY, MAINE)	
OVERBOARD DISCHARGE	)	AND
ME0036862	)	WASTE DISCHARGE LICENSE
W001013-5C-F-R	)	RENEWAL
	APPROVAL	

In compliance with the provisions of the *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, *Conditions of licenses*, 38 M.R.S. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the TWG SOUTHPORT, LLC, d/b/a the OCEAN GATE RESORT (permittee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On June 23, 2021, the Department accepted as complete for processing an application from the permittee for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit ME0036862/Maine Waste Discharge License (WDL) W001013-5C-D-R (permit) which was issued by the Department on July 6, 2016, for a five year term. The July 2016 permit authorized the seasonal discharge (April 1st – November 30th) of no more than 5,000 gallons per day (gpd) of secondary treated wastewater from Gem Hospitality Group LLC d/b/a the OCEAN GATE RESORT to Townsend Gut, Class SB water, in Southport, Maine.

On January 16, 2018, the Department approved transfer of MEPDES #0036862/WDL#001013 5C-D-R from GEM Hospitality Group LLC to TWP SOUTHPORT LLC.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the previous permitting action except that this permitting action is:

1. Increasing the monitoring period for fecal coliform to cover the entire discharge season, April 1st to November 30th, pursuant to 38 MRS § 465 (B)(2)(B);
2. Revising the fecal coliform monthly average and daily maximum limits from 15 CFU/100 ml and 50 CFU/100 ml to 14 CFU/100 mL and 31 CFU/100, respectively, pursuant to 38 MRS § 465 (B)(2)(B);

PERMIT SUMMARY (cont'd)

3. Establishing a seasonal monitoring requirement of once per month (1/Month) for enterococci bacteria from April 15th – October 31st, starting on April 15th, 2022, pursuant to 38 MRS § 465 (B)(2)(B); and
4. Establishing enterococci bacteria monthly average and daily maximum limits of 8 CFU/100 mL and 54 CFU/100 mL, respectively, pursuant to 38 MRS § 465 (B)(2)(B).

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 3, 2022 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 waterbody are not met, the discharge will not cause or contribute to the failure of the waterbody to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving waterbody 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 waterbody, 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 *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D) and 414-A(1-B).
5. The overboard discharge system was in continuing existence for the 12 months preceding June 1, 1987.

CONCLUSIONS (cont'd)

6. The Department 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.
7. 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.
8. The discharge is not located within the boundaries of a sanitary district or sewer district and connecting to infrastructure is not practicable.

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ACTION


THEREFORE, the Department APPROVES the application of TWG Southport, LLC. d/b/a the OCEAN GATE RESORT to seasonally discharge (April 1- November 30) no more than 5,000 gallons per day of secondary treated sanitary wastewater (Outfall #001) from the OCEAN GATE RESORT to the Townsend Gut, Atlantic Ocean, Class SB, in Southport, Maine, 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 becomes effective upon the date of signature below and expires at midnight five (5) years after that 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 2(21)(A) (amended June 9, 2018).

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 11 DAY OF January 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 

For Melanie Loyzim, Commissioner

FILED
JAN 11, 2022
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection _____

Date of initial receipt of application: June 15, 2021

Date of application acceptance: June 23, 2021

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The permittee is authorized to discharge secondary treated sanitary wastewater from **Outfall #001** to Townsend Gut, Atlantic Ocean, Class SB, between April 1st – November 30th. Such discharges are limited and must be monitored by the permittee as specified below⁽¹⁾:

(April 1st- November 30th)

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow <i>[50050]</i>	Report gpd <i>[07]</i>	---	5,000 gpd <i>[07]</i>	---	---	---	Continuous <i>[99/99]</i>	Measure <i>[MS]</i>
BOD₅ <i>[00310]</i>	1.3 lbs./day <i>[26]</i>	1.9 lbs./day <i>[26]</i>	2.1 lbs./day <i>[26]</i>	30 mg/L <i>[19]</i>	45 mg/L <i>[19]</i>	50 mg/L <i>[19]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
BOD₅ Percent Removal⁽²⁾ <i>[81010]</i>	---	---	---	85% <i>[23]</i>	---	---	1/Month <i>[01/30]</i>	Calculate <i>[CA]</i>
TSS <i>[00530]</i>	1.3 lbs./day <i>[26]</i>	1.9 lbs./day <i>[26]</i>	2.1 lbs./day <i>[26]</i>	30 mg/L <i>[19]</i>	45 mg/L <i>[19]</i>	50 mg/L <i>[19]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
TSS Percent Removal⁽²⁾ <i>[81011]</i>	---	---	---	85% <i>[23]</i>	---	---	1/Month <i>[01/30]</i>	Calculate <i>[CA]</i>
Fecal Coliform Bacteria⁽³⁾⁽⁴⁾ <i>[31633]</i>	---	---	---	14 CFU/100 ml <i>[13]</i>	---	31 CFU/100 ml <i>[13]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
Enterococci Bacteria⁽⁵⁾ <i>(April 15th - October 31st)</i> <i>[61211]</i>	---	---	---	8 CFU/100 ml <i>[13]</i>	---	54 CFU/100 ml <i>[13]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
Total Residual Chlorine⁽⁶⁾ <i>[50060]</i>	---	---	---	---	---	1.0 mg/L <i>[19]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>
pH (Standard Unit) <i>[00400]</i>	---	---	---	---	---	6.0 – 9.0 SU <i>[12]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports. **Footnotes:** See Page 6 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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 wastewater 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 (effective December 19, 2018). 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 permittee must maintain a minimum of 85 percent removal of both BOD₅ and TSS for all flows receiving secondary treatment. The percent removal must be calculated based on influent and effluent concentration values. The permittee’s wastewater treatment system does not contain an influent sampling location that is representative of raw wastewater conditions. Therefore, this permitting action authorizes the permittee to assume an influent BOD₅ and TSS concentration value of 286 mg/L for purposes of calculating the monthly percent removal value. See page 7 of Fact Sheet for a basis statement.
- 3. Bacteria Limits** – Fecal coliform bacteria limits and monitoring requirements are in effect during the discharge season, currently April 1st – November 30th.
- 4. Bacteria Reporting** – The monthly average fecal coliform bacteria limitation is a geometric mean limitation and sample results must be reported as such.
- 5. Enterococci Bacteria Reporting** – Enterococcus bacteria limits and monitoring requirements are seasonal running from April 15th – October 31st. The monthly average limitation is a geometric mean limitation and results must be calculated and reported as such. These monitoring and reporting requirements commence on April 15th, 2022.
- 6. Total Residual Chlorine (TRC)** – 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. There must be at least 14 days between sampling events.

SPECIAL CONDITIONS

B. ANNUAL DISCHARGE FEES

Pursuant to *Annual waste discharge license fees*, 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 permittee must not discharge effluent that contains 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 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 uses designated for the classification of the receiving waters.
3. The permittee must not discharge effluent that causes visible discoloration or turbidity in the receiving waters that causes those waters to be unsuitable for the designated uses and characteristics ascribed to their class.
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.

D. TREATMENT PLANT OPERATOR

The treatment facility must be operated by a person holding a minimum of a **Maine Grade II** certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Sewage Treatment Operators*, 32 M.R.S. § 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 on June 23, 2021
2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of wastewater from any other point source(s) 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 in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to 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. SITE EVALUATION FOR TRANSFER OF OWNERSHIP

Pursuant to 38 M.R.S. § 413(3-A)(B)(1), except when it has been demonstrated within 5 years prior to a transfer of ownership of the property containing an overboard discharge, or some other time period acceptable to the Department, that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer must determine the feasibility of technologically proven alternatives to the overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42).

Notwithstanding other applicable provisions of 38 M.R.S. § 413(3-A), if an alternative to the overboard discharge is identified, the alternative system must be installed within 180 days of property transfer, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit.

H. OPERATION & MAINTENANCE (O&M) PLAN

The permittee 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.

SPECIAL CONDITIONS

H. OPERATION & MAINTENANCE (O&M) PLAN (cont'd)

The O&M Plan must be kept on site at all times and made available to Department and USEPA personnel upon request.

Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility, the permittee must submit the updated O&M Plan to their Department inspector for review and comment.

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 must 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 must 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, and pumping frequency.

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 15th day of the month** following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Toxics reporting must be done using the DEP Toxsheet reporting form. An electronic copy of the Toxsheet reporting document must be submitted to your Department compliance inspector as an attachment to an email. In addition, a hardcopy form of this sheet must be signed and submitted to your compliance inspector, or a copy attached to your NetDMR submittal will suffice.

SPECIAL CONDITIONS

J. MONITORING AND REPORTING (cont'd)

Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15th day of the month following the completed reporting period.

K. REOPENING OF PERMIT FOR MODIFICATIONS

In accordance with 38 M.R.S. § 414-A(5) and 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.

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 must remain in full force and effect, and must 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**

FACT SHEET

DATE: **JANUARY 3, 2022**

MEPDES PERMIT: **ME0036862**
WASTE DISCHARGE LICENSE: **W001013-5C-F-R**

NAME AND ADDRESS OF APPLICANT:
**TWG SOUTHPORT, LLC
C/O WARDMAN GROUP
4200 WISCONSIN AVE NW, #106-153
WASHINGTON DC, 20016**

COUNTY: **LINCOLN COUNTY**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:
**OCEAN GATE RESORT
70 OCEAN GATE ROAD
SOUTHPORT, MAINE 04576**

RECEIVING WATER/CLASSIFICATION:
TOWNSEND GUT, ATLANTIC OCEAN/Class SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:
**THAD PAUL
(202) 899-4654
e-mail: thad@wardmangroup.com**

1. APPLICATION SUMMARY

- a. Application: On June 23, 2021, the Department of Environmental Protection (Department) accepted as complete for processing an application from TWG Southport, LLC, d/b/a the OCEAN GATE RESORT (permittee) for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036862/Maine Waste Discharge License (WDL) #W001013-5C-D-R which was issued by the Department on July 6, 2016, for a five year term. The July 2016 permit authorized the seasonal discharge (April 1st – November 30th) of no more than 5,000 gallons per day (gpd) of secondary treated wastewater from Gem Hospitality Group LLC d/b/a the OCEAN GATE RESORT to Townsend Gut, Class SB water, in Southport, Maine.

On January 16, 2018, the Department approved transfer of MEPDES #0036862/WDL#001013-5C-D-R from GEM Hospitality Group LLC to TWP SOUTHPORT LLC.

2. PERMIT SUMMARY

- b. Terms and conditions: This permitting action is carrying forward all the terms and conditions of the previous permitting action except that this permitting action is:
1. Increasing the monitoring period for fecal coliform to cover the entire discharge season, April 1st to November 30th, pursuant to 38 MRS § 465 (B)(2)(B);
 2. Revising the fecal coliform monthly average and daily maximum limits from 15 CFU/100 ml and 50 CFU/100 ml to 14 CFU/100 mL and 31 CFU/100, respectively, pursuant to 38 MRS § 465 (B)(2)(B);
 3. Establishing a seasonal monitoring requirement of once per month (1/Month) for enterococci bacteria from April 15th – October 31st, starting on April 15th, 2022, pursuant to 38 MRS § 465 (B)(2)(B); and
 4. Establishing enterococci bacteria monthly average and daily maximum limits of 8 CFU/100 mL and 54 CFU/100 mL, respectively, pursuant to 38 MRS § 465 (B)(2)(B).
- c. History: This section provides a summary of significant licensing actions and milestones that have been completed for the Ocean Gate Resort.

March 3, 1982 - The Department issued WDL# 1013 for a five-year term. WDL# 1013 authorized the discharge of up to 5,000 gpd of treated sanitary wastewaters.

April 10, 1982 – The EPA received an application for the Ocean Gate Motor Inn. The EPA never acted on the application.

April 8, 1993 – The Department issued WDL#W001013-66-A-R for a ten-year term. WDL#001013-66-A-R authorized the discharge of up to 5,000 gpd of secondary treated wastewater.

January 12, 2001 – The State of Maine received authorization from the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine. From that point forward, the program has been referred to as the MEPDES permit program and #ME0036862 has and will be utilized as the primary reference number for the Ocean Gate Motor Inn wastewater treatment facility.

December 6, 2006 – The Department issued combination MEPDES Permit # ME0036862/WDL#W001013-5L-B-R.

October 14, 2011 – The Permittee submitted a timely and complete General Application to the Department for renewal of the December 6, 2006 MEPDES permit. The application was accepted for processing on October 18, 2011 and was assigned MEPDES Permit #ME0036862/WDL#W001013-5C-C-R.

2. PERMIT SUMMARY (cont'd)

December 5, 2011 – The Department issued combination MEPDES Permit # ME0036862/WDL#W001013-5C-C-R.

May 10, 2016 – The Permittee submitted a timely and complete General Application to the Department for renewal of the December 5, 2011 MEPDES permit. The application was accepted for processing on May 11, 2016 and was assigned MEPDES Permit #ME0036862/WDL #W001013-5C-D-R.

July 6, 2016 – The Department issued combination MEPDES Permit # ME0036862/WDL#W001013-5C-D-R.

January 16, 2018 - The Department issued MEPDES #0036862/WDL#W111013-5C-E-T, transferring MEPDES #0036862/WDL#001013-5C-D-R from GEM Hospitality Group LLC to TWP SOUTHPORT LLC.

June 15, 2021 – The Permittee submitted a timely and complete General Application to the Department for renewal of the July 6, 2016 MEPDES permit. The application was accepted for processing on June 23, 2021 and was assigned MEPDES Permit #ME0036862/WDL #W001013-5C-F-R.

- d. Source description: Sanitary wastewaters are generated from the 48-unit motel facility. The Ocean Gate Resort is located on Southport Island, an island connected to the mainland via a vehicle bridge. See **Attachment A** of this Fact Sheet for a location map.
- e. Wastewater treatment: The wastewater currently receives primary treatment from a 5,000-gallon septic tank and secondary treatment from a 55 ft. by 68 ft. (3740 sq. ft.) dual sandfilter bed. The treated wastewater is discharged into the receiving waterbody via a six-inch diameter outfall pipe without a diffuser and with approximately two feet of water over the crown of the pipe at mean low water.
- f. Replacement options: Pursuant to 38 M.R.S. § 414-A(1-B), the Department finds that the discharge from an OBD meets the requirements of best practicable treatment for purposes of licensing 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. The Department's finding must be based on documentation from a licensed site evaluator having experience in designing replacement systems for overboard discharges and provided by the overboard discharge owner.

It is noted that on September 2017 a site evaluation was conducted by a Licensed Site Evaluator. The site was determined to not be suitable for the installation of a subsurface wastewater disposal system.

3. CONDITIONS OF PERMIT

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 the 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 Department rule *Surface Water Toxics Control Program*, 06-096 CMR 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 584 (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 estuarine and marine waters, 38 M.R.S. § 469(3-A) classifies all estuarine and marine waters lying within the boundaries of Lincoln County and that are not otherwise classified, which includes Southport at the point of discharge, as Class SB waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S. § 465(B)(2) establishes classification standards for Class SB waters as follows:

- A. *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.*
- B. *The dissolved oxygen content of Class SB waters may not be less than 85% of saturation. Between April 15th and October 31st, the number of enterococcus bacteria in these waters may not exceed a geometric mean of 8 CFU per 100 milliliters in any 90-day interval or 54 CFU per 100 milliliters in more than 10% of the samples in any 90-day interval. The number 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.*
- C. *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 State of Maine 2016 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 Southport (DEP Waterbody # 730, DMR Pollution Area 21D, 21F, 22) as “Category 5-B-1(a): Estuarine and Marine Waters Impaired for Bacteria Only-TMDL Required,” as the result of elevated fecal indicators. This area is also listed in “Category 5-B-1(b): Estuarine and Marine Waters Impaired for Bacteria Only (Formerly Category 2)-TMDL Required,” due to its status as a Department of Marine Resources (DMR) shellfish harvest (pollution) closure area.

The DMR traditionally closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (instream thresholds established in the National Shellfish Sanitation Program) or keeps areas closed due to lack of updated information. In addition, a small area is closed in the immediate vicinity of all wastewater treatment outfall pipes in the unlikely event of a failure in the disinfection system for the treatment plant. It is noted the Boothbay Harbor area has one of the largest concentrations of permitted overboard discharge systems in the State which is the primary reason for the shellfish area closures. Classification information for specific locations, can be found at <http://www.maine.gov/dmr/shellfish-sanitation-management/closures/pollution.html> .

Lastly, Southport is listed as 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.

The Department has no information that the discharge from the permittee, as conditioned, causes or contributes to non-attainment of applicable Class SB water quality standards.

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 licensing 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) (amended November 27, 2004), *Criteria and Standards for Waste Discharge Licenses* 06-096 CMR 524(2) (effective January 12, 2001) and *Effluent Guidelines and Standards* 06-096 CMR 525(3)(III) (effective January 12, 2001), BPT for overboard discharges is secondary treatment. The secondary treatment regulation establishes technology-based effluent limitations for BOD₅, TSS, and pH which are discussed in more detail in the individual parameter sections below.

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

- b. Flow: Previous licensing actions established, and this permit is carrying forward, a daily maximum flow limitation of 5,000 gallons per day (GPD), which is based on the design of the treatment facility, and a monthly average flow reporting requirement. The July 2016 permitting action modified the discharge season from May 15th - September 30th to April 1st - November 30th.

The Department reviewed Discharge Monitoring Reports (DMRs) submitted for the period August 2016 – August 2021. A review of the data indicates the following:

Flow (DMRs = 27) Outfall #001

Value	Limit GPD	Range GPD	Mean GPD
Monthly Average	Report	45 – 3,450	964.9
Daily Maximum	5,000	45 – 3,710	1,321

- c. Dilution Factors: 06-096 CMR 530(4)(A)(2)(a) states that, “For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model.” Based on the configuration of the proposed Outfall #001 and daily maximum discharge flow design criterion of 5,000 GPD, the Department has made a best professional judgment (BPJ) that dilution factors are as follows:

Acute = 361:1 Chronic = 1,116:1 Harmonic mean¹ = 3,348:1

- d. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS): Previous permitting action established, and this permitting action is carrying forward, monthly and weekly average technology-based *concentration limits* of 30 mg/L and 45 mg/L, respectively, for BOD₅ and TSS. These limits are based on the secondary treatment requirements specified in *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III) (effective January 12, 2001). This permitting action is also carrying forward daily maximum BOD₅ and TSS *concentration limits* of 50 mg/L, based on a Department Best Professional Judgment (BPJ) of Best Practicable Treatment (BPT).

The technology-based monthly average, weekly average, and daily maximum *mass limits* for BOD₅ and TSS, 1.3 lbs./day, 1.9 lbs./day and 2.1 lbs./day, respectfully, are being carried forward in this permit and are based on the daily maximum flow design criterion of

¹The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the U.S. EPA 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.

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

5,000 GPD (same as 0.005 million gallons per day, MGD) and the applicable concentration limits.

The mass-based limits were calculated as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.005 \text{ MGD}) = 1.3 \text{ lbs./day}$

Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs./day})(0.005 \text{ MGD}) = 1.9 \text{ lbs./day}$

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs./day})(0.005 \text{ MGD}) = 2.1 \text{ lbs./day}$

This permitting action carries forward the minimum monitoring frequency requirement of once per month (1/Month) for BOD₅ and TSS.

The Department reviewed Discharge Monitoring Reports (DMRs) submitted for the period August 2016 – August 2021. It is noted that the monthly average concentration limit for BOD₅ was exceeded in August 2020. A review of the data indicates the following:

BOD₅ Mass (DMRs = 27)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	1.3	0.0 – 0.2	0.04
Weekly Average	1.9	0.0 – 1.9	0.11
Daily Maximum	2.1	0.0 – 2.1	0.74

BOD₅ Concentration (DMRs = 28)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	1.0 – 32	5.8
Weekly Average	45	1.0 – 32	5.8
Daily Maximum	50	1.0 – 32	5.8

TSS Mass (DMRs = 27)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	1.3	0.0 – 1.3	0.08
Weekly Average	1.9	0.0 – 0.1	0.03
Daily Maximum	2.1	0.0 – 2.1	0.76

TSS Concentration (DMRs = 28)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	3.0 – 23	9.4
Weekly Average	45	3.0 - 23	9.4
Daily Maximum	50	3.0 - 23	9.4

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

This permitting action carries forward the requirement for a minimum of 85% removal of BOD₅ and TSS pursuant to 06-096 CMR 525(3)(III)(a)(3) and (b)(3). This permitting action is also carrying forward the minimum monitoring frequency requirement of once per month (1/Month) for percent removal. The permittee’s wastewater treatment system does not contain an influent sampling location that is representative of raw wastewater conditions. According to the USEPA’s *Onsite Wastewater Treatment Systems Manual*, dated February 2002, table 3-7 entitled “Constituent Mass Loadings and Concentrations in Typical Residential Wastewater,” influent values for BOD₅ and TSS may be assumed to be 286 mg/L and 300 mg/L, respectively. This permitting action is carrying forward authorization for the Ocean Gate Resort to assume an influent BOD₅ and TSS concentration value of 286 mg/L for the purpose of calculating the monthly percent removal value until such time that the infrastructure is modified or replaced such that collection of a representative raw influent sample is practical.

- e. Fecal Coliform Bacteria: The December 2006 permitting action established monthly average and daily maximum concentration limits of 15 colony forming units (CFU)/100 ml and 50 CFU/100 ml, respectively, for fecal coliform bacteria, which were consistent with the Maine Water Classification Program criteria and National Shellfish Sanitation Program at the time. Pursuant to 38 MRS § 465 (B)(2)(B), this permitting action is establishing monthly average and daily maximum limits of 14 CFU/100 mL and 31 CFU/100 mL, respectfully, for fecal coliform bacteria. These limits are consistent with the National Shellfish Sanitation Program, 2019.

This permitting action is carrying forward the monitoring frequency for fecal coliform bacteria of once per month (1/Month). Monitoring is required throughout the entire discharge season, April 1st- November 30th. The monitoring season for fecal coliform has been extended to year-round for discharges into Class SB waters pursuant to 38 MRS § 465 (B)(2)(B). The Ocean Gate Resort, however, does not discharge year-round. Monitoring and reporting need only be conducted during the permitted months of operation.

The Department reviewed 23 DMRs that were submitted for the period August 2016 – August 2021. It is noted that the daily maximum limit for fecal coliform was exceeded in August 2019 and June 2021. A review of the data indicates the following:

Fecal Coliform Bacteria (DMR = 23)

Value	Limit (CFU/100 mL)	Range (CFU/100 mL)	Mean (CFU/100 mL)
Monthly Average	15	0.0 – 13	2.6
Daily Maximum	50	0.0 – 2,420	111

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

- f. Enterococcus Bacteria: Pursuant to 38 MRS § 465 (B)(2)(B), this permitting action is establishing a monitoring requirement for enterococcus bacteria with monthly average and daily maximum limits of 8 CFU/100 ml and 54 CFU/100 ml respectfully. In addition to fecal coliform limits to protect the designated use of “propagation and harvesting of shellfish”, it is appropriate to require end-of-pipe limits for enterococcus bacteria to protect the designated use of “recreation in and on the water.” The reporting period will be seasonal, April 15th through October 31st , and begins April 15, 2022.

The monitoring frequency requirement for enterococcus bacteria is once per month (1/Month) and is a continuation of the bacteria monitoring regime already in place for this facility.

- g. Total Residual Chlorine (TRC): Previous permitting action established a daily maximum BPT-based limit of 1.0 mg/L for TRC. 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.

1. *Water Quality-Based Limit*: With dilution factors as determined above, end-of-pipe (EOP) water quality-based concentration limits for TRC must be calculated as follows:

$$\text{Acute Limit} = \text{Acute Criterion} \times \text{Acute Dilution Factor}$$

$$\text{Acute Limit} = 0.013 \text{ mg/L} \times 364 = 4.73 \text{ mg/L}$$

$$\text{Chronic Limit} = \text{Chronic Criterion} \times \text{Chronic Dilution Factor}$$

$$\text{Chronic Limit} = 0.0075 \times 1,116 = 8.37 \text{ mg/L}$$

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	0.013 mg/L	0.0075 mg/L	364:1	1,116:1	4.73 mg/L	8.37 mg/L

2. *BPT-Based Limit*

- a. The Department has established a daily maximum BPT-based limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds.
- b. For facilities that need to dechlorinate the discharge in order to meet water quality-based limits the Department has established daily maximum and monthly average BPT-based limits of 0.3 mg/L and 0.1 mg/L, respectively.

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

The daily maximum BPT-based limit of 1.0 mg/L is more stringent than the calculated water quality-based limit above, and is therefore being carried forward in this permitting action.

The July 2016 permitting action reduced monitoring for TRC from twice per week to once per month (1/Month). This permit is carrying that action forward.

The Department reviewed 25 DMRs that were submitted for the period August 2016 – August 2021. A review of data indicates the following:

Total Residual Chlorine (DMRs = 25)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.09 – 1.00	0.72

- h. pH: The December 2006 permitting action established, and this permitting action is carrying forward, a technology-based pH limit of 6.0 – 9.0 standard units (SU). This is based on 06-096 CMR 525(3)(III).

The December 2011 permit reduced monitoring for pH from 2/Week to 1/Month as the monitoring results for pH had proved to be consistent. This permit is carrying that action forward.

The Department reviewed 28 DMRs that were submitted for the period August 2016 – August 2021. It is noted that there was an exceedance of the lower pH limit in May 2018. A review of data indicates the following:

pH (DMRs = 28)

Value	Limit (SU)	Minimum (SU)	Maximum (SU)
Range	6.0 – 9.0	5.75	7.10

- i. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing:

The regulatory background for this requirement is as follows:

38 M.R.S. § 414-A and 38 M.R.S. § 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.

06-096 CMR 530 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.

06-096 CMR 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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

06-096 CMR 530(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 exceedances of narrative or numerical water quality criteria.*”

06-096 CMR 530(2)(A) further specifies the criteria for the 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.*

The permittee's facility is exempt from the 06-096 CMR 530 requirements as the characteristics of the wastewater are considered to be similar to that of a residential overboard discharge. Additionally, the permit authorizes a discharge of less than 50,000 gpd of solely domestic wastewater and the chronic dilution factor is greater than 50:1.

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 K, *Reopening of Permit for Modifications*, to incorporate the applicable whole effluent toxicity (WET), priority pollutant or analytical testing requirements cited above.

- j. Nitrogen: The USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards in marine waters, namely dissolved oxygen (DO) and marine life support. To date, the permittee has not conducted total nitrogen testing on its discharge. As of April 2021, the Department has 227 total nitrogen effluent values with an arithmetic mean of 19.8 mg/L collected from various municipally-owned treatment works that discharge domestic wastewater to marine waters of the State. None of the facilities whose effluent data were used for this mean calculation are specifically designed to remove total nitrogen. For the MEPDES permitting program, the Department considers 19.8 mg/L to be representative of total nitrogen discharge levels for all facilities providing secondary treatment that discharge to marine waters in the absence of facility specific data. Therefore, 19.8 mg/L is being used as the total nitrogen concentration from the Ocean Gate Motor Resort overboard discharge.

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

As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for total nitrogen. According to several studies in USEPA's Region 1, numeric total nitrogen criteria have been established for relatively few estuaries, but the criteria that have been set typically fall between 0.35 mg/L and 0.50 mg/L to protect marine life using dissolved oxygen as the indicator. While the thresholds are site-specific, nitrogen thresholds set for the protection of eelgrass habitat range from 0.30 mg/L to 0.39 mg/L. Based on studies in USEPA's Region 1 and the Department's best professional judgment of thresholds that are protective of Maine water quality standards, the Department is utilizing a threshold of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator, and 0.32 mg/L for the protection of aquatic life using eelgrass as the indicator.

Two known surveys have been completed along the Southport shoreline that specifically documented presence/absence of eelgrass. The 1994 and 2005 surveys were conducted by the ME Department of Marine Resources, and mapped an approximately 0.05 ha eelgrass bed of moderate cover 1.3 km to the west of the outfall in both survey years. Other than this small bed, eelgrass has not been mapped as present between Southport Island and West Boothbay, and was only sparsely distributed surrounding Southport Island and the islands in the lower Sheepscot River estuary. Given the absence of historic mapped eelgrass in close proximity to the outfall, the use of 0.45 mg/L as a total nitrogen threshold value for protection of dissolved oxygen is appropriate for this receiving water.

With the exception of ammonia, nitrogen is not acutely toxic; thus, the Department is considering a far-field dilution to be more appropriate when evaluating impacts of total nitrogen to the marine environment. The permittee's facility has a chronic near field dilution factor of 1,116:1. In marine waters, far field dilutions are significantly higher than the respective near-field dilution factor. Due to the small magnitude of this discharge in relation to the receiving water, the Department is using a very conservative far field dilution factor estimate of approximately 2,000:1. Based on this analysis, the increase in the ambient total nitrogen due to the permittee's effluent discharge is as follows:

Estimated total nitrogen concentration in effluent = 19.8 mg/L

Chronic, far field dilution factor: 2,000:1

In-stream concentration after far field dilution: $(19.8 \text{ mg/L})/2,000 = 0.01 \text{ mg/L}$

The Department and external partners have been collecting ambient total nitrogen data along Maine's coast. No total nitrogen data are known to exist along the northern shoreline of Southport Island, and few data points are available for similar constricted marine channels adjacent to lower estuaries along Maine's exposed coast, where only minor discharges are licensed and upland land use and seasonal tourism are minimal. As a proxy for the Southport shoreline, the Department assessed limited total nitrogen data from nine sites with comparable characteristics along the Midcoast region of Maine. The sites located from the New Meadows River estuary in the west to the St. George River estuary in the east were sampled during July-September of 1996, 2003 and 2004. With the inclusion of

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

these data points, the calculated mean +/- standard deviation background surface water total nitrogen concentration of 0.21 ± 0.09 mg/L (n=11) will be used for the current permit revision.

With the calculated ambient value for this receiving water, the estimated increase in ambient total nitrogen after reasonable opportunity for mixing in the far-field is 0.21 mg/L + 0.01 mg/L = 0.22 mg/L. The in-stream concentration value of 0.22 mg/L is less than the Department and USEPA's total nitrogen threshold of 0.45 mg/L for the protection of aquatic life using dissolved oxygen as an indicator. Using the reasonable potential calculations above and in the absence of any information that the receiving water is not attaining standards, the Department is making a best professional judgment determination that the discharge of total nitrogen from the Ocean Gate Resort facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters. This permitting action is not establishing any discharge limitations or monitoring requirements for total nitrogen.

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 waterbody 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 June 9, 2021. 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 *Application Processing Procedures for Waste Discharge Licenses*, CMR 522 (effective January 12, 2001).

9. DEPARTMENT CONTACTS

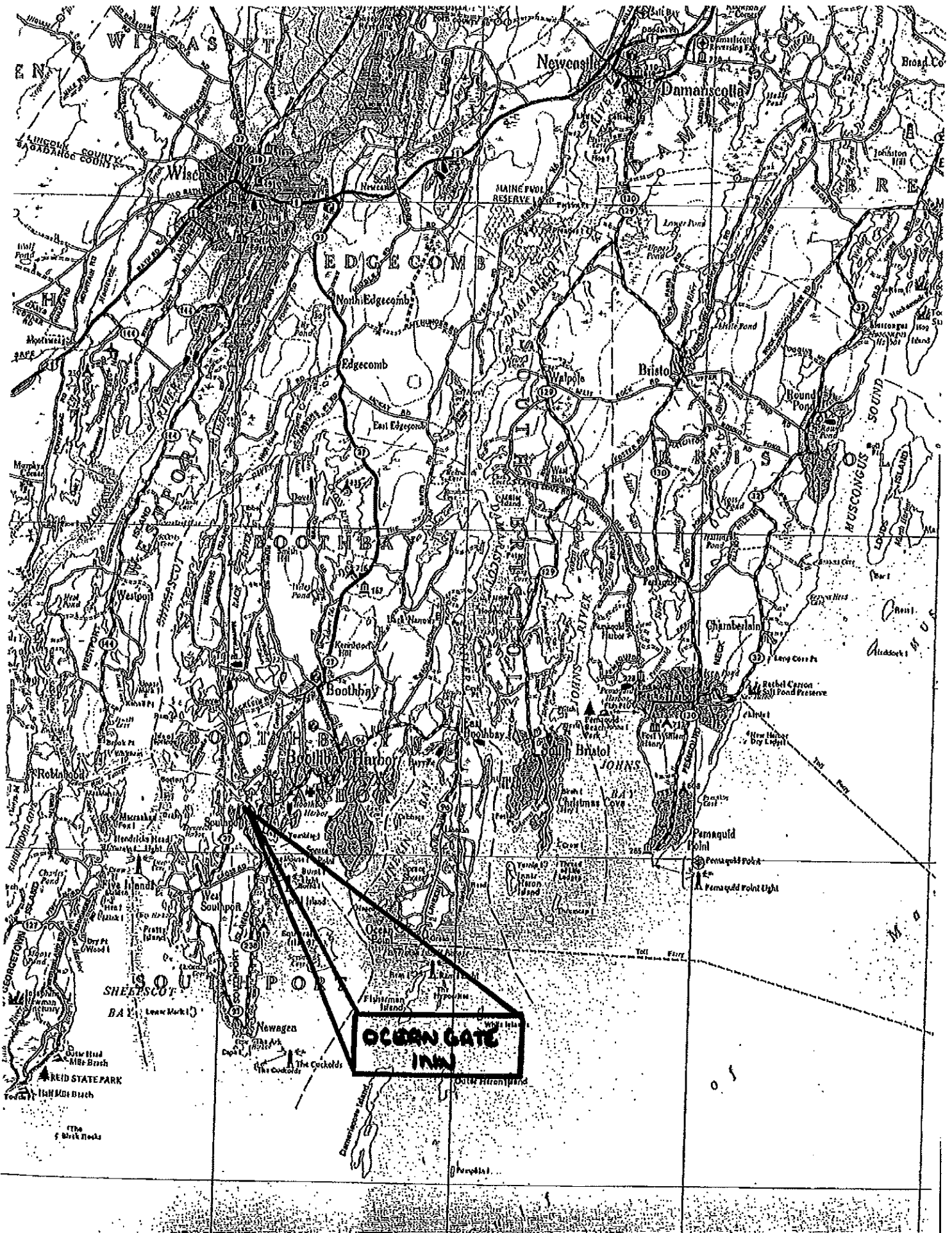
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Breanne Blaisdell
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-1298
e-mail: Breanne.Blaisdell@maine.gov

10. RESPONSE TO COMMENTS

During the period of November 30, 2021, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

ATTACHMENT A



**OCEAN GATE
INN**

**SHEEPSCOT
BAY**

EDGECOMB

BOOTHBAY

BRISTOL

WISCASSETT

NEWENGLAND

DAMASCUS

BRISTOL

ROUND POND

CHIMBERLAIN

PARANQUID POINT

NEW HARBOR

ROBERT CARSON

PARANQUID POINT LIGHT

NEW HARBOR DRY DOCK

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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A. GENERAL PROVISIONS

1. **General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. **Other materials.** Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

(a) They are not

- (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
- (ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

3. **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

4. **Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

5. **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. **Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

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7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

11. Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
- (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
- (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
- (e) The permittee shall install flow measuring facilities of a design approved by the Department.
- (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. Proper operation and maintenance. The permittee shall 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. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Bypasses.

(a) Definitions.

- (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

- (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f), below. (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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D. REPORTING REQUIREMENTS

1. Reporting requirements.

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
 - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
 - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
 - (ii) 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 the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
 - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
 - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

- (A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
- (B) Any upset which exceeds any effluent limitation in the permit.
- (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

- (g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.
- (h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRS.A, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

- (a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (i) One hundred micrograms per liter (100 ug/l);
 - (ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
 - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (i) Five hundred micrograms per liter (500 ug/l);
 - (ii) One milligram per liter (1 mg/l) for antimony;
 - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
 - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
- (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
 - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

3. Removed substances. Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. Connection to municipal sewer. (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

Continuous discharge means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

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Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.