



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

January 4, 2005

DAWN R. GALLAGHER  
COMMISSIONER

Lance and Karla Morrell  
8808 Lynnhurst Drive  
Fairfax, Virginia 22031

09 A B 7  
Town of  
Cliff Island

RE: Transferred Waste Discharge License W004666-5A-D-T, Cliff Island, Portland, Maine.

Dear Mr. and Mrs. Morrell:

Enclosed is your Waste Discharge License as approved by the Department of Environmental Protection for the discharge of no more than 315 gallons per day from your home on Cliff Island to the waters of Luckse Sound. This license is valid until October 2, 2010. Please read your license and its attached conditions carefully. You must comply with the license and its conditions in order to satisfy the requirements of the 1989 and 2003 Amended Overboard Discharge Laws. Failure to do so is a violation of Maine's Water Quality Protection Laws and may be subject to enforcement action.

Any person who is aggrieved by this decision may appeal the decision by following the procedures described in the attached fact sheet. If you have questions, please call me at (207) 287-6301.

Sincerely,

Michael Demarest  
Overboard Discharge Program  
Division of Water Resource Regulation  
Bureau of Land and Water Quality

Enc: W004666- 5A-D-T  
Copy of W004666-5A-C-R  
Appeal Fact Sheet

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688  
RAY BLDG., HOSPITAL ST.

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

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

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 764-1507



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

January 4, 2005

DAWN R. GALLAGHER  
COMMISSIONER

Robert & Karen Bailey  
PO Box 284  
Columbus, NJ 08022

RE: Transferred Waste Discharge License W004666-5A-D-T, Cliff Island, Portland, Maine.

Dear Mr. and Mrs. Bailey:

Enclosed is your Waste Discharge License as approved by the Department of Environmental Protection for the discharge of no more than 315 gallons per day from your home on Cliff Island to the waters of Luckse Sound. This license is valid until October 2, 2010. Please read your license and its attached conditions carefully. You must comply with the license and its conditions in order to satisfy the requirements of the 1989 and 2003 Amended Overboard Discharge Laws. Failure to do so is a violation of Maine's Water Quality Protection Laws and may be subject to enforcement action.

Any person who is aggrieved by this decision may appeal the decision by following the procedures described in the attached fact sheet. If you have questions, please call me at (207) 287-6301.

Sincerely,

Michael Demarest  
Overboard Discharge Program  
Division of Water Resource Regulation  
Bureau of Land and Water Quality

Enc: W004666- SA-D-T  
Copy of W004666-5A-C-R  
Appeal Fact Sheet

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688  
RAY RLDG., HOSPITAL ST.

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

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822.6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 764-1507



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

DEPARTMENT ORDER  
IN THE MATTER OF

ROBERT AND KAREN BAILEY	)	PROTECTION AND IMPROVEMENT
LANCE AND KARLA MORRELL	)	OF WATERS
CLIFF ISLAND, PORTLAND, CUMBERLAND COUNTY, MAINE	)	WASTE DISCHARGE
OVERBOARD DISCHARGE	)	LICENSE
MAP #109A LOT #B 7	)	TRANSFER
#W004666-5A-D-T APPROVAL FOR THE DISCHARGE OF	)	
315 GPD OF SANITARY WASTEWATER TO LUCKSE SOUND	)	

Pursuant to the provisions of 38 M.R.S.A., Section 414-A et. seq. and 06-096 CMR Chapter 596, the Department of Environmental Protection has considered the application of ROBERT BAILEY, KAREN BAILEY, LANCE MORRELL and KARLA MORRELL, with its supportive data, agency review comments, and the related material on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

- a. The applicants have requested the transfer to their names only of Waste Discharge Conditional Permit #W004666-5A-C-R. Waste Discharge Conditional Permit #W004666-5A-C-R, currently in the name of Peter Schenk, approves the discharge of 315 gallons per day of treated sanitary wastewater from their facility on Cliff Island, Portland, Maine to Luckse Sound, Class SB.
- b. The applicants intend to comply with the conditions of the license.

2. FACILITY DESCRIPTION

- a. The discharge is from a three-bedroom, single-family dwelling located on Cliff Island. Cliff Island is connected to the mainland by scheduled car ferry service.
- b. The wastewater currently receives secondary treatment from an overboard discharge system consisting of a septic tank and sand filter with chlorine disinfection. The treated wastewater is discharged from the treatment system to below the mean low water mark of the receiving waterbody via an outfall pipe.
- c. The facility is approved to discharge treated sanitary wastewater year-round.
- d. There are no compliance or enforcement actions pending for this facility.
- e. The applicants have submitted a determination by a Licensed Site Evaluator demonstrating that there is not a subsurface disposal option at this time.
- f. The applicants have demonstrated the technical and financial capacity to comply with all conditions of Waste Discharge Conditional Permit #W004666-5A-C-R.

Based on the above Findings of Fact, and subject to the Conditions listed below, the Department makes the following conclusions:

- 1. The applicants' overboard discharge treatment system meets the requirements of Best Practicable Treatment.

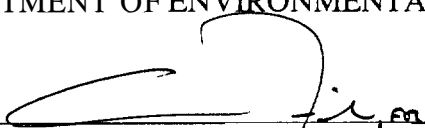
- 2. Pursuant to PL 2003 Chapter 246, the Department may no longer issue conditional permits. However, the findings, conclusions, and conditions of the most recent renewal order remain in effect until the expiration date of that order.

**THEREFORE, the Department APPROVES the application of ROBERT BAILEY, KAREN BAILEY, LANCE MORRELL and KARLA MORRELL for Waste Discharge License #W004666-5A-D-T to transfer Waste Discharge Conditional Permit #W004666-5A-C-R to their name and to discharge no more than 315 gallons per day of treated sanitary wastewater to Luckse Sound, Class SB in Cliff Island, Portland, Maine; subject to the following conditions and all applicable standards and regulations.**

- 1. The licensees are required to pay an annual discharge fee. Failure of the owners to pay the annual fee within 30 days of initial billing will be considered a violation of the license conditions and may be subject to enforcement action.
- 2. The licensees are required to maintain the OBD treatment system in good working order. Failure to maintain the system, including the disinfection system, is a violation of the conditions of this license and may be subject to enforcement action.
- 3. The amount of effluent being discharged and the number of months the discharge occurs can not be increased in accordance with 38 M.R.S.A. §464(4)(A)(6).
- 4. All terms and conditions of the original conditional permit remain in **full** force and effect, including the expiration date and related stipulations. The expiration date of the current permit (copy attached) is October **2**, 2010.

DONE AND DATED AT AUGUSTA, MAINE, THIS 31<sup>ST</sup> DAY OF JANUARY, 2005.

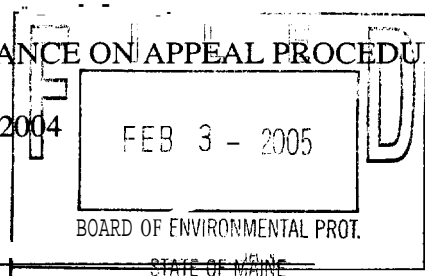
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:   
 Dawn R. Gallagher, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: December 28, 2004  
 Date of application acceptance: January 4, 2005

Date filed with Board of Environmental Protection



This Order prepared by Michael Demarest, Bureau of LAND AND WATER QUALITY MHD/W004666-5A-D-T/01.04.2005

**APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES  
OF LESS THAN 2,000 GALLONS PER DAY**

**I. GENERAL COMPLIANCE**

A. The licensee shall comply with all terms and conditions of this license. Any noncompliance is a violation of State law and the Clean Water Act and is grounds for enforcement action; for license termination, revocation and reissuance, or modification; or denial of a license renewal application. 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, license, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, **9349**.

B. The discharge must be consistent with the terms and conditions of this license. **Changes that increase the estimated discharge volume are prohibited.** Any planned or actual facility modifications that may result in an increased discharge amount or change the discharge characteristics must be reported to the Department of Environmental Protection (hereinafter: the Department). Determinations of volume design flow must be based on the wastewater design flows described in CMR Chapter 241 Section 7, the Subsurface Waste Water Disposal Rules (the "Plumbing Code").

Facility modifications that may increase the volume or otherwise affect the characteristics of the discharge include but are not limited to:

1. Residential sources: The construction of additional bedrooms, bunkhouses or dwellings; the conversion of accessory structures to such uses, the creation of waste discharge connections from mobile homes or recreational vehicles, or an increase in the duration of the discharge beyond that authorized in this license.
2. Commercial sources: Construction or renovations that would increase restaurant seating, room capacity or other modifications or changes of use which could reasonably be expected to result in an increase in discharge volume, duration or characteristic.

**Changes that increase the estimated discharge volume are a violation of the terms and conditions of this license and are therefore prohibited.** Changes or modifications to discharge characteristics without prior Department approval are also a violation of this license.

C. The licensee shall grant Department staff right of entry to the regulated wastewater treatment facility at reasonable times. The licensee shall grant staff unobstructed access to the treatment system and appurtenances (its controls, monitoring and testing equipment) for the purposes of verifying compliance, examining records, sampling the effluent, and inspecting the treatment system and appurtenances. Disinfection unit and sampling ports must be accessible at all times.

**II. LIMITATIONS OF LICENSE**

- A. This license does not preclude obtaining other required Federal, State or Municipal licenses
- B. The licensee shall comply with all Federal Statutes, regulations, and conditions of licenses applicable to its discharge of wastewater, including but not limited to those requiring the installation of pretreatment facilities or establishment of pretreatment programs.
- C. Apart from the installation, maintenance and replacement of the approved or existing treatment system and its appurtenances (waste collection, system controls, monitoring equipment, etc.), this license does not authorize or approve the construction of any facilities or physical structures within the shoreland zone or below the normal high water mark of any waterbody.
- D. This license does not authorize any infringement of any other body of law, be it Federal, State or local, nor does it relieve the licensee from civil or criminal penalties for non-compliance.
- E. The issuance of this license does not convey any property rights, authorize injury to public or private property or infringement upon another's personal rights.

**APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES  
OF LESS THAN 2,000 GALLONS PER DAY**

**III. TREATMENT**

- A. The licensee shall maintain the wastewater treatment system including its appurtenances in good working order and operate the system at maximum efficiency at all times.
- B. The wastewater treatment system including its appurtenances must be installed according to Department specifications and be operational prior to the discharge of wastewater.
- C. The effluent from the wastewater treatment system must not exceed the following limits:

Effluent Characteristic	Discharge Limitations	
	Monthly Average	Daily Maximum
Flow		as licensed
5-Day Biochemical Oxygen Demand (BOD)	30 mg/L	50 mg/L
Total Suspended Solids (TSS)	30 mg/L	50 mg/L
Settleable Solids		0.1 ml/L
Fecal coliform Bacteria	15col/100ml	
pH	The pH of the effluent shall not be less than 6.0 or greater than 8.5	

- D. Chlorination or ultraviolet units must be used as a means of disinfection. A minimum detention time of 20 minutes in an approved contact chamber must be provided at all times for chlorinators. The total chlorine residual in the effluent must at no time cause any demonstrable harm to aquatic life in the receiving water. The total chlorine residual of the effluent may not exceed 1.0 mg/L at any time.
- E. The final effluent pipe must be placed in the receiving waters in such a manner that mixing and effective dispersion of the wastewater will be achieved and that contact with the effluent will be minimized.
- F. The licensee shall not discharge or cause to be discharged any materials designated as hazardous or toxic under the provision of Section 12, Federal Water Pollution Control Act, as amended, 33 U.S.C. 1162 (1971) or by the Department or which are known by the licensee to be hazardous or toxic.
- G. The discharge must not have a visible oil sheen, contain foam or floating solids.
- H. The discharge may not contain materials in concentrations or combinations that are hazardous or toxic to aquatic life; nor may it cause turbidity or visible discoloration in the receiving waters to exceed control values measured upstream of the discharge point.
- I. Notwithstanding specific conditions of this license the effluent may not lower that water **quality** standards or impair the uses designated by the classification of the receiving waters.

**IV. NONCOMPLIANCE NOTIFICATION**

- A. It is the obligation of the licensee to notify Department staff immediately of any malfunction in any component of the wastewater treatment system. In the event the wastewater treatment system malfunctions, the wastewater discharge is to cease within 24 hours unless authorization to the contrary is obtained from the staff of the Department.

**APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES  
OF LESS THAN 2,000 GALLONS PER DAY**

**V. MONITORING AND REPORTING**

- A. The licensee shall operate and maintain the facility in accordance with Department specifications and the terms and conditions of this license. The licensee shall install supplementary monitoring, metering or testing equipment at any time during the operation of the treatment facilities as the Department may reasonably require to ensure compliance with license conditions. Metering, monitoring, testing or sampling equipment must be of a design approved by the Department. Disinfection unit and sampling port covers must be accessible at all times.
- B. The licensee shall complete, sign, certify and submit to the staff of the Department any reports, in such form and containing such information as the Department may require.

**VI. LICENSE ADMINISTRATION**

- A. The permittee shall maintain this license as current, submitting complete applications with all required exhibits for renewals and/or modifications as may be necessary.
- B. The licensee shall pay an annual fee to the Department for the administration of the Overboard Discharge Program and inspection of the applicant's OBD system. Payment of the fee is due within 30 days of receiving a bill from the Department.
- C. Prior to the transfer the ownership of the property, or the facility thereon, a site evaluation must be performed by a licensed site evaluator with experience in designing systems for the replacement of overboard discharges, if one has not been conducted in the previous five years. Should a practicable alternative be identified by the LSE, that system must be installed within 90 days of transfer, season and weather permitting.
- D. In the event that the named licensee transfers ownership of the facility without application by the new owner and subsequent Department approval of a transfer of the associated license, the license granted by the Department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license, and the parties to the transfer are jointly and severally liable for any violation thereof until such time as the Department approves transfer of issuance of a waste discharge license to the new owner. The Department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.
- E. All wastewater will be consigned to a municipal treatment system when said municipal system becomes available. This waste discharge license will automatically expire 90 days after a municipal facility becomes available unless the Board, in writing, for good cause shown extends this time.
- F. The Department reserves the right to make appropriate revisions to this license in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 M.R.S.A., §414-A(5)

**SPECIAL CONDITIONS FOR SAND FILTER SYSTEMS**

- S-1.** At least three days prior to the construction or replacement of the sand filter, the licensee shall contact the Department staff in order that an inspection of the construction may be made.
- S-2.** The licensee shall ensure that the septic tank is pumped at least once every three years and that periodic cleaning of the disinfection unit housing chamber is performed as may be necessary for proper disinfection and discharge of treated sanitary wastewater.

**APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES  
OF LESS THAN 2,000 GALLONS PER DAY**

**SPECIAL CONDITIONS FOR MECHANICAL TREATMENT SYSTEMS**

- M-1. The licensee shall maintain a service contract for any and all treatment equipment and facilities with a service organization acceptable to the Department. A signed copy of the service contract must be forwarded or presented to the Department staff upon request.
- M-2. A tag, provided by the service contractor, must be attached to the treatment system or displayed near the treatment system in an accessible manner. The tag must show the name of the service contractor, the date of the most recent visit by the service contractor and the initials of the person conducting the service.
- M-3. The installed mechanical system must have an alarm system of a design approved by the Department.

**DEFINITIONS - FOR THE PURPOSE OF THIS LICENSE, THE FOLLOWING DEFINITIONS APPLY:**

- A. Daily Maximum for Concentration: The maximum value not to be exceeded by any composite or grab samples.
- B. Monthly Average for Concentration: The total discharge by weight during a calendar month divided by the number of tests in the month that the facility was operating. Where less than daily sampling is required by this license, the monthly average discharge shall be determined by the summation of all the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.
- C. Licensee: The person identified in the findings of fact as being granted the license by the Department.
- D. Facility: "Facility" includes the waste discharge system, its appurtenances, and all connected structures that produce wastewater discharge volumes according to this license. Facility shall include unplumbed structures accessory to connected structures (bunkhouses, etc.) which would logically result in an increased discharge volume or change in effluent character.
- E. Sanitary Wastewater: Domestic effluent, having received the licensed level of treatment and disinfection.





# DEP INFORMATION SHEET

## Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

### SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. **This INFORMATION SHEET**, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

#### HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

#### HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

#### WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. **Aggrieved Status.** Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. **The findings, conclusions or conditions objected to or believed to be in error.** Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. **The basis of the objections or challenge.** If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.

*remedy sought.* This can range from reversal of the Commissioner's decision on the license or changes in specific permit conditions.