



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PAUL MERCER
COMMISSIONER

February 29, 2016

Cliff Island Association
PO Box 118
Cliff Island, ME 04019
cindig@chaseleavitt.com

**RE: Maine Waste Discharge License (WDL) Application #W009062-5A-B-R
FINALIZED WDL Renewal**

Dear Cliff Island Association:

Enclosed, please find a copy of your **finalized** Maine WDL, which was approved by the Department of Environmental Protection. Please read the license and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State law and is subject to enforcement action.

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.*"

Please review the important information on elimination of OBDs provided in the enclosed DEP Fact Sheet #DEPLW1184, *Summary of 2010 OBD Law Changes*. If a technologically proven alternative system **is available** to eliminate your OBD, the alternative system must be installed before this license expires *if*: 1) the OBD serves a non-primary residence; 2) serves a primary residence and the owners have an annual income of more than \$125,000; 3) ownership of the property is transferred; 4) the OBD owners initiate a significant construction project (>\$50,000). If technologically proven alternative system is available and you believe you are not eligible for a grant, the Department strongly encourages you to contact us before your license expires to discuss these requirements in greater detail.

If you have documented that a technologically proven alternative system **is not available**, you will **NOT BE REQUIRED** to remove the OBD during the five-year term of the enclosed license.

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



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

DEPARTMENT ORDER

IN THE MATTER OF

CLIFF ISLAND ASSOCIATION) PROTECTION AND IMPROVEMENT
PORTLAND, CUMBERLAND COUNTY, MAINE) OF WATERS
RESIDENTIAL OVERBOARD DISCHARGE) WASTE DISCHARGE LICENSE
#W009062-5A-B-R) RENEWAL
APPROVAL	

Pursuant to *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Maine Department of Environmental Protection (Department) has considered the application of CLIFF ISLAND ASSOCIATION (applicant or licensee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The applicant has applied to the Department for renewal of Waste Discharge License (WDL) #W009062-5A-A-N, which was issued to the applicant on April 26, 2011 and is scheduled to expire on April 26, 2016. The 4/26/11 WDL authorized the year-round, daily maximum discharge of 600 gallons per day (GPD) of primary treated sanitary wastewater generated by an assembly hall and treated with a mechanical wastewater treatment system to Casco Bay, Class SB, in Portland, Maine. The applicant has provided documentation indicating that the discharge now receives secondary treatment.

LICENSE SUMMARY

The applicant has objectively demonstrated to the Department's satisfaction that, based on documentation from a licensed site evaluator experienced in designing replacement systems for overboard discharges, there are currently 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 result in elimination of the overboard discharge. *Overboard discharges: licenses and abandonment*, 06-096 CMR 596(6)(B)(2) (last amended November 27, 2004) requires that the licensed discharge volume be limited to the lesser of the volume limit of the previous license or the volume equal to the actual or estimated volume produced by the facility connected to the overboard discharge system during the 12 months prior to June 1, 1987. The estimated wastewater volume generated by a three-bedroom dwelling is 270 GPD according to *Maine Subsurface Waste Water Disposal Rules*, 10-144 CMR 241, Table 4A. However, the Department has developed policy to establish a minimum volume limitation of 300 GPD for single-family dwellings, which is being carried forward in this licensing action as a daily maximum discharge flow limitation. The applicant has certified that public notice of the application was provided.

ACTION

THEREFORE, the Department APPROVES the above noted application of CLIFF ISLAND ASSOCIATION to discharge a daily maximum of **600 gallons per day** of secondary treated sanitary wastewater from an assembly hall on a **year-round basis** to Casco Bay, Class SB, in Portland, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Maine Department of Environmental Protection's Standard License Conditions for Overboard Discharges of Less Than 2,000 Gallons per Day*, revised October 2004, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit expires five years from the date of signature below. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

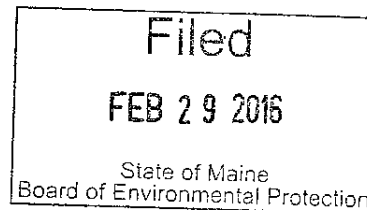
DONE AND DATED AT AUGUSTA, MAINE, THIS 29th DAY OF February, 2016.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
For Paul Mercer, Commissioner

Date of initial receipt of application: January 25, 2016

Date of application acceptance: January 26, 2016



Date filed with Board of Environmental Protection: _____

This Order prepared by Irene M Saumur, BUREAU OF WATER QUALITY

B. REQUIREMENTS TO ELIMINATE OVERBOARD DISCHARGES (cont'd)

2. **License Renewal.** Waste Discharge Licenses for overboard discharges are issued for a five-year term. The licensee shall submit a complete application for license renewal prior to the expiration date of this license to continue the discharge beyond the expiration date of this license. If a technologically proven alternative system is available and;
 - a) The overboard discharge owner is eligible for grant funding², the alternative system must be installed within 180 days of written notification from the Department, unless otherwise provided by *Conditions of licenses*, 38 M.R.S.A. § 411-A(1-B).
 - b) The overboard discharge owner is not eligible for grant funding, the alternative system must be installed prior to the expiration date of this license.
3. **Abandonment of Overboard Discharge.** When an overboard discharge is no longer necessary or is replaced by technologically proven alternative system, it must be properly abandoned within 90 days following the requirements of *Overboard discharges: licenses and abandonment*, 06-096 CMR 596(8), including submission of Overboard Discharge Abandonment Certification Form #DEPLW0653-A2010.

C. PAYMENT OF FEES

Annual waste discharge license fees, 38 M.R.S.A. § 353-B requires the licensee to pay an applicable annual fee for discharges authorized by this license. The Department may pursue enforcement, including, but not limited to, penalties pursuant to *Organization and powers*, 38 M.R.S.A. § 349, and suspension or revocation pursuant to *Board Responsibilities and Duties*, 38 M.R.S.A. § 341-D(3), for the failure of a licensee to pay any portion of licensing fees owed by the date due.

D. REOPENING OF LICENSE FOR MODIFICATION

Upon evaluation of new site-specific information obtained during the term of this license, the Department may, at any time and with notice to the licensee, modify this license to: 1) include effluent limits necessary to control specific pollutants where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; 2) require additional monitoring if results on file are inconclusive; or 3) change monitoring requirements or limitations based on new information.

E. SEVERABILITY

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

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

OBD owners who do not qualify for a grant may be eligible for funding provided through the Maine State Housing Authority (MSHA). MSHA, through the regional Community Action Program agency, can provide low interest loans (maximum of \$15,000) to replace an OBD with a subsurface system or connection to public sewer. Eligibility for the program is limited to those with household incomes less than 120% of the area's median household income. Additional information on the MSHA loan program is available at www.maine.housing.org or from Monica Buck, MSHA, at 207-624-5745 / mbuck@mainehousing.org.

"Significant Action" Trigger for OBD Removal

Waste discharge licenses, 38 M.R.S.A. § 413 is amended to require elimination of OBDs (beginning September 1, 2010) if a "significant action" is proposed for the property containing the OBD.

"Significant action" means a single construction project performed on a primary residence with an OBD when the total material and labor cost of the construction project exceeds \$50,000. Prior to conducting a significant action, an OBD owner is required to determine, based on documentation from a LSE, the feasibility of eliminating the OBD with a technologically-proven alternative. If an alternative to the OBD is identified, the alternative system must be installed within 90 days of the significant action.

DEP Contacts

Questions regarding this fact sheet or the OBD program in general should be directed to:

Irene Saumur
Division of Water Quality Management
Bureau of Water Quality
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017
ph: 207-485-2404
fax: 207-287-3435
e-mail: irene.saumur@maine.gov

**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 <u>Average</u>	Daily <u>Maximum</u>
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	---	0.3 ml/L
Fecal coliform Bacteria (for marine, estuarine discharges)	15col/100ml	50 col/100ml
Escherichia coli Bacteria (for freshwater discharges)	Class B: 64 col/100ml Class C: 142 col./100ml	427 col/100 ml 949 col./100 ml
Total Residual Chlorine		1.0 mg./L
pH	The pH of the effluent shall not be less than 6.0 or greater than 9.0	

- 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**

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.

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.
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 arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

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, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide 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 questions regarding applicable requirements.
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. 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, including 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, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. 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, a license holder, and interested persons of its decision.