

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR



PAUL MERCER
COMMISSIONER

July 25, 2018

Mr. Dan Miller
Miller Holdings, LLC
683 Biscay Rd.
Bremen, ME 004551
miller@tidewater.net

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0037001
Maine Waste Discharge License (WDL) #W002231-5C-F-R
Proposed Draft Permit

Dear Mr. Miller:

Enclosed please find a copy of your **proposed draft** MEPDES permit and Maine WDL (permit hereinafter) which the Department of Environmental Protection (Department hereinafter) proposes to issue as a final document after opportunity for your review and comment. By transmittal of this letter you are provided with an opportunity to comment on the proposed draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If the permit contains errors or does not accurately reflect present or proposed conditions, please respond to the Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies, as required by our new regulations, and from any other parties who have notified the Department of their interest in this matter.

All comments must be received in the Department of Environmental Protection office on or before 5:00 pm **Thursday, August 23, 2018**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333-0017

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

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

Sincerely,

A handwritten signature in cursive script, reading "Irene Saumur". The signature is written in black ink and is positioned above the printed name and title.

Irene Saumur
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc: William Johnson, DEP/CMRO
Lori Mitchell, DEP/CMRO
Olga Vergara, USEPA,
Marelyn Vega, USEPA,
IFWEnvironmentalreview@maine.gov
EnvironmentalReview.DMR@maine.gov



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

DEPARTMENT ORDER

IN THE MATTER OF

MILLER HOLDINGS, LLC) MAINE POLLUTANT DISCHARGE
BOOTHBAY, LINCOLN COUNTY, MAINE) ELIMINATION SYSTEM PERMIT
OVERBOARD DISCHARGE) AND
ME0037001) WASTE DISCHARGE LICENSE
W002231-5C-F-R) RENEWAL
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. §414-A, *et seq.*, and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of MILLER HOLDINGS, LLC (Miller Holdings/Permittee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Miller Holdings/Permittee has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037001/Maine Waste Discharge License (WDL) #W002231-5C-E-T (permit hereinafter) which was issued by the Department on July 7, 2015. The 7/7/15 permit transferred ownership of the property from Waterford Quay to Miller Holdings, LLC and is scheduled to expire on December 12, 2018. The permit authorized the year-round discharge of 4,600 gallons per day (GPD) of secondary treated waste waters from a 170-seat restaurant with 15 employees and a nine-bedroom/eight bath dwelling used as employee housing (formerly an Inn), to a tidal section of the Damariscotta River, Class SB, in Boothbay, Maine.

PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions of the previous permit except that this permit is;
1. Revision the duration of monitoring and reporting schedule from seasonal to year-round based on information in the application which states that the property may be used year-round.
 2. Establishing a monitoring and reporting frequency of 1/Year for pH pursuant to 40 CFR §122.44 (i)(2), which states in part; *requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.*
 3. Establishes a monitoring and reporting frequency for BOD₅ and TSS 85% removal of 1/Month to be consistent with monitoring and reporting for BOD₅ & TSS.
 4. Increasing the timeframe when Fecal Coliform Bacteria limits are in effect from May 15 – September 30 to year-round based on a revision to Maine Law 38 M.R.S. §465(3)(B) effective August 2, 2018, and, increasing the monitoring and reporting frequency from 1/Month to 1/Week.

PERMIT SUMMARY (cont'd)

5. Establishing monthly average and daily maximum limitations with monitoring and reporting requirements for Enterococci bacteria based on revisions to Maine law 38 M.R.S. §465(B)(3), effective date August 2, 2018.
6. Establishing a reporting frequency for Flow of 1/Month on a year-round basis.

CONCLUSIONS

BASED on the findings in the attached Proposed Draft Fact Sheet dated July 25, 2018, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with State law.
3. The provisions of the State's antidegradation policy, 38 M.R.S. §464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - (c) Where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S. §414-A(1)(D).
5. The overboard discharge system was in continuing existence for the 12 months preceding June 1, 1987.
6. A non-discharging sub-surface waste water disposal system could be not installed in compliance with the Maine Subsurface Waste Water Disposal Rules at the time the renewal application was accepted for processing by the Department.
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.

ACTION

THEREFORE, the Department APPROVES the above noted application of MILLER HOLDINGS, LLC to discharge a daily maximum flow of up to 4,600 gpd of secondary treated sanitary waste water to a tidal segment of the Damariscotta River, Class SB, in Boothbay, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits,”* revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire 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 authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended June 9, 2018)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS ____DAY OF _____, 2018.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
Paul Mercer, Commissioner

Date of initial receipt of application: July 18, 2018.

Date of application acceptance: July 18, 2018

Date filed with Board of Environmental Protection _____.

This Order prepared by Irene Saumur, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of this permit, the permittee is authorized to discharge secondary treated sanitary waste water from **Outfall #001A** to the Damariscotta River, Class SB. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	---	---	4,600 gpd [07]	---	---	---	1/Month [01/30]	Meter [MT]
BOD₅ [00310]	1.2 lbs/day [26]	1.8 lbs/day [26]	2.0 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [GR]
BOD₅ Percent Removal⁽²⁾ [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
TSS [00530]	1.2 lbs/day [26]	1.8 lbs/day [26]	2.0 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [GR]
TSS Percent Removal⁽²⁾ [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Month [01/30]	Grab [GR]
Fecal Coliform Bacteria⁽³⁾ [31616] (Year-Round)	---	---	---	15 col/100 ml ⁽⁴⁾ [13]	---	50/100 ml [13]	1/Week [01/07]	Grab [GR]
Enterococci bacteria [31639] (April 15 – October 31)	---	---	---	8 col./100 ml ⁽⁴⁾ [13])		54 col./100 ml [13]	1/Month [01/30]	Grab [GR]
<u>Total Residual Chlorine⁽⁵⁾</u> [50060]	---	---	---	---	---	1.0 mg/L [19]	2/Week ⁽⁶⁾ [02/07]	Grab [GR]
pH [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	1/Year [01/YR]	Grab [GR]

Footnotes See Page 5 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes

1. **Sampling** – All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for waste water testing. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
2. **Percent Removal** – The permittee must achieve a minimum of 85 percent removal of both total suspended solids and biochemical oxygen demand for all flows receiving secondary treatment. 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 until such time that the infrastructure is modified or replaced such that collection of a representative raw influent sample is practical.
3. **Bacteria Limits** – Fecal coliform bacteria limits and monitoring requirements are in effect year-round based on a revision to Maine Law 38 M.R.S. §465(3)(B) effective August 2, 2018. The Department reserves the right to require year-round disinfection on a year-round basis to protect the health, safety, and welfare of the public.
4. **Bacteria Reporting** – The monthly average bacteria limitations are a geometric mean limitation and sample results shall be reported as such.
5. **Total residual chlorine (TRC)** – Limitations and monitoring requirements are in effect any time elemental chlorine or chlorine-based compounds are utilized to disinfect the discharge(s). The permittee must utilize a USEPA-approved test method capable of bracketing the TRC limitations specified in this permitting action. Monitoring for TRC is only required when elemental chlorine or chlorine-based compounds are in use for effluent disinfection. For instances when a facility has not disinfected with chlorine-based compounds for an entire reporting period, the facility shall report "NODI-9" for this parameter on the monthly DMR or "N9" if the submittal is an electronic DMR. The permittee must utilize approved test methods that are capable of bracketing the TRC limitation in this permit.
6. **2/week** – There shall be at least 2 days between sampling events when monitoring is on a 2/week frequency.

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 person that has direct responsibility for the operation of the treatment facility must be operated by a person holding a minimum of a **Maine Grade I** certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Sewerage 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 July 18, 2018; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. 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. REQUIREMENTS TO ELIMINATE OVERBOARD DISCHARGES

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

1. ***Transfer of Ownership of Property or Significant Action.*** Prior to transfer of ownership of property containing an overboard discharge (*i.e.*, change in the legal entity that owns a property, facility or structure that is the subject of a permit), the parties to the transfer must determine the feasibility of technologically proven alternatives¹ to the overboard discharge.
 - a) If an alternative to the overboard discharge is available, the alternative system must be installed within 90 days of property transfer or significant action, unless otherwise provided by *Waste discharge licenses*, 38 M.R.S. § 413(3-A).
 - b) If an alternative to the overboard discharge is not available, the new owner must, no later than two weeks after any transfer of ownership, submit an application to the Department for transfer of this permit.
2. ***Permit Renewal.*** Waste Discharge Permits for overboard discharges are issued for a five-year term. The permittee must submit a complete application for permit renewal prior to the expiration date of this permit to continue the discharge beyond the expiration date of this permit. If a technologically proven alternative system is available and;

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

SPECIAL CONDITIONS

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

- 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. § 414-A(1-B); or The overboard discharge owner is not eligible for grant funding, the alternative system must be installed prior to the expiration date of this permit.
3. ***Abandonment of Overboard Discharge.*** When an overboard discharge is no longer necessary or is replaced by technologically proven alternative system, it must be properly abandoned within 90 days following the requirements of *Overboard discharges: licenses and abandonment*, 06-096 CMR 596(8), including submission of Overboard Discharge Abandonment Certification Form #DEPLW0653A.

H. OPERATION & MAINTENANCE (O&M) PLAN

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. 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. CONNECTION TO MUNICIPAL SEWER

All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system within 180 days of the system becoming available, unless this time is extended by the Department in writing.

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

SPECIAL CONDITIONS

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 and 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 shall remain in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

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

PROPOSED DRAFT FACT SHEET

Date: **July 25, 2018**

MEPDES PERMIT: **ME0037001**
WASTE DISCHARGE LICENSE: **W002231-5C-F-R**

NAME AND ADDRESS OF APPLICANT:

**MILLER HOLDINGS, LLC
683 Biscay Rd
Bremen, ME 04551**

COUNTY: **Lincoln County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Lobsterman's Wharf Restaurant
224 Ocean Point Road
East Boothbay, Maine 04544**

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

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Dan Miller**
(207) 380-9322
e-mail miller@tidewater.net

CONTRACT OPERATOR **Mr. Chuck Applebee**
(207) 380-4261
e-mail: waterqualityandcompliance@roadrunner.com

1. APPLICATION SUMMARY

Miller Holdings/Permittee has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037001/Maine Waste Discharge License (WDL) #W002231-5C-E-T (permit hereinafter) which was issued by the Department on July 7, 2015. The 7/7/15 permit transferred ownership of the property from Waterford Quay to Miller Holdings, LLC and is scheduled to expire on December 12, 2018. The permit authorized the year-round discharge of 4,600 gallons per day (GPD) of secondary treated waste waters from a 170-seat restaurant with 15 employees and a nine-bedroom/eight bath dwelling used as employee housing (formerly an Inn) to a tidal section of the Damariscotta River, Class SB, in Boothbay, Maine. See **Attachment A** of this Fact Sheet for a location map.

2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions of the previous permit except that this permit is;
1. Revision the duration of monitoring and reporting schedule from seasonal to year-round based on information in the application which states that the property may be used year-round.
 2. Establishing a monitoring and reporting frequency of 1/Year for pH pursuant to 40 CFR §122.44 (i)(2), which states in part; *requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.*
 3. Establishing a monitoring and reporting frequency for BOD₅ and TSS 85% removal of 1/Month to be consistent with monitoring and reporting for BOD₅ & TSS
 4. Increasing the timeframe when Fecal Coliform Bacteria limits are in effect from May 15 – September 30 to year-round based on a revision to Maine Law 38 M.R.S. §465(3)(B) effective August 2, 2018, and, increasing the monitoring and reporting frequency from 1/Month to 1/Week.
 5. Establishing monthly average and daily maximum limitations with monitoring and reporting requirements for Enterococci bacteria based on revisions to Maine law 38 M.R.S. §465(B)(3), effective date August 2, 2018.
 6. Establishing a reporting frequency for Flow of 1/Month on a year-round basis.

- b. History: This section provides a summary of significant licensing/permitting actions that have been completed for the Miller Holdings facility:

October 4, 1983 – The Department issued Waste Discharge License (WDL) #W002231-5C-A-N to Lobsterman's Wharf for a five-year term.

November 20, 1996 – The Department issued (WDL) #W002231-5C-B-R to Lobsterman's Wharf for a ten-year term.

December 16, 2008 – The Department issued combination MEDPES permit #ME0037001 / WDL #W002231-5C-C-R to Waterford Quay, Inc., for a five-year term.

December 10, 2013 - The Department issued combination MEDPES permit #ME0037001 / WDL #W002231-5C-D-R to Waterford Quay, Inc., for a five-year term.

July 7, 2015 – The Department issued combination MEDPES permit #ME0037001 / WDL #W002231-5C-E-T transferring ownership of the facility from Waterford Quay, Inc., to Miller Holdings, LLC., for the remainder of the five-year term.

July 18, 2018 – Miller Holdings, LLC submitted a timely application to the Department for renewal of combination MEDPES permit #ME0037001 / WDL #W002231-5C-E-T. The application was accepted for processing on July 18, 2018 and assigned WDL #W002231-5C-F-R.

2. PERMIT SUMMARY (cont'd)

- b. Source description: The source of waste waters treated is generated by a 170-seat restaurant with 15 employees and a nine bedroom/eight baths dwelling, formerly and Inn, now used as employee housing.
- c. Waste water treatment: The waste water generated by the various sources described above receives a secondary level of treatment by way of a mechanical treatment system and disinfection via sodium hypochlorite injection. The treated and seasonally disinfected waste water is discharged to a tidal segment of the Damariscotta River via a four (4) inch diameter outfall pipe that terminates under the wharf and has approximately six feet of water over the crown of the pipe at mean low tide and 12 feet of water over the crown of the pipe at mean tide. See Attachment B of this Fact sheet for a schematic of the treatment facility.
- d. Replacement Options: In May of 2003, the State Legislature adopted several amendments to the licensing of overboard discharges and the Department revised its rule Chapter 596, *Overboard Discharges: Licensing and Abandonment*, accordingly. One of the amendments in the revised rule required OBD owners that were applying to the Department to renew their OBD license, to hire a licensed site evaluator (LSE) to determine whether there is a technologically feasible replacement of the existing system prior to license renewal and install the replacement system within 180 days if grant money is offered by the Department.

The permittee has provided the Department with a site evaluation dated November 1, 2013 prepared by a LSE that has determined there are no technologically feasible replacement options for the existing 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 (effective July 29, 2012), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

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

4. RECEIVING WATER QUALITY STANDARDS (cont'd)

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

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

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

5. RECEIVING WATER QUALITY CONDITIONS

The 2016 Integrated Water Quality Monitoring and Assessment Report published by the Department pursuant to Section 305(b) of the Federal Water Pollution Control Act lists the Damariscotta River in the vicinity of the discharge from the permittee's facility in *Category 2: Estuarine and Marine Waters Attaining Some Designated Uses – Insufficient Information for Other Uses*. Attainment in this context is in regard to the designated use of harvesting of shellfish which is currently prohibited due to overboard discharges and boats. DMR shellfish harvesting Area 23-C, Lower Damariscotta River (Boothbay and South Bristol), is closed to the harvesting of shellfish. See **Attachment A** of this Fact Sheet for a map of Area 23-C.

The DMR prohibits the harvesting of shellfish in the Lower Damariscotta River when ambient water quality data indicates the waters in the area of concern area do not meet or marginally met the standards in the National Shellfish Sanitation Program. In addition, DMR closes areas by default in the vicinity of outfall pipes associated with treated sanitary waste water discharges in the event of a failure of the disinfection system. Therefore, Area 23-C remains closed as of the date of this permitting action. Compliance with the seasonal fecal coliform bacteria limits in this permitting action will ensure that the discharge from the permittee's facility will not cause or contribute to the shellfish harvesting closure.

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The 2016 305(b) report also lists all estuarine and marine waters in a category entitled, *Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants*. The waters are listed as partially supporting fishing (“shellfish consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomally. Department rule

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

“This rule applies to all persons licensed or permitted pursuant to 38 M.R.S. §413 to discharge pollutants to the surface waters of the State except as described below. For the purposes of this rule, the term licensee also means permittee. Categorical exclusions. This rule does not apply to the following categories of licensees: combined sewer overflows, snow dumps, pesticide applications, and over board discharges licensed pursuant to 38 M.R.S. §413. [emphasis added] Except, however, specific members of these categories may be required by the department to comply with this rule on a case by case basis...”

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Best Practicable Treatment (BPT) - The Department will find that the discharge meets the requirements of best practicable treatment pursuant to 38 M.R.S. § 414-A(1-B) for purposes of permitting when it finds that there are no technologically proven alternative methods of wastewater disposal consistent with the plumbing code adopted by the Department of Health and Human Services pursuant to Title 22, section 42 that will not result in an overboard discharge. Pursuant to *Overboard Discharges: Licensing and Abandonment*, 06-096 CMR 596(9), *Criteria and Standards for Waste Discharge Licenses* 06-096 CMR 524(2) (effective January 12, 2001) and 06-096 CMR 525(3)(III), BPT for overboard discharges is secondary treatment.
- b. Flow: This permitting action carries forward the daily maximum discharge flow limitation of 4,600 gallons per day (gpd) established in a previous permitting action and establishes a year-round monitoring and reporting schedule based on information in the application indicating that the facility may be used on a year-round basis.

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

Flow (DMRs = 16)

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Daily maximum	4,600	125 – 4,873	1,867

[It is noted that there was one excursion during the time period]

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

- c. Dilution Factors – Department rule 06-096 CMR, Chapter 530, Surface Water Toxics Control Program, §4(A)(2) states,

(2) For estuaries where tidal flow is dominant and marine discharges, dilution factors are calculated as follows. These methods may be supplemented with additional information such as current studies or dye studies.

(a) 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.

(b) For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.

(c) In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor.

With a permitted flow of 4,600 gpd, the location and configuration of the outfall structure, the Department has made a best professional judgment that dilution factors are follows:

Acute = 250:1

Chronic = 730:1

Harmonic mean = 2190⁽¹⁾

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

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

- d. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS): A previous permitting action established technology-based monthly average, weekly average and daily maximum BOD₅ and TSS concentration limits of 30 mg/L, 45 mg/L and 50 mg/L, respectively. The monthly average and weekly average concentration limits are based on secondary treatment requirements as defined in Department rule, 06-096 CMR Chapter 525(3)(III) and the daily maximum concentration limit of 50 mg/L is based on a best professional judgment by the Department of best practicable treatment (BPT). This permitting action is carrying forward all three technology-based concentration limits.

06-096 CMR Chapter 523, *Waste Discharge License Conditions*, Section 6, *Calculating NPDES permit conditions*, sub-section f(1) states that, "all pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass...." Therefore, this permitting action is carrying forward the monthly average, weekly average and daily maximum BOD₅ and TSS mass limitations based on calculations using the daily maximum permitted flow limitation for the facility of 4,600 gpd (0.0046 MGD) and the applicable concentration limits as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.0046 \text{ MGD}) = 1.2 \text{ lbs/day}$

Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs./day})(0.0046 \text{ MGD}) = 1.8 \text{ lbs/day}$

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs./day})(0.0046 \text{ MGD}) = 2.0 \text{ lbs/day}$

This permitting action carries forward the minimum monitoring frequency requirement of 1/Month for BOD₅ and TSS. A review of the monthly discharge flow data as reported on the DMR submitted to the Department for the period August 2015 – May 2018 indicates the following:

BOD Concentration (DMRs = 16)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	1 – 31	4.5
Weekly Average	45	1 – 56	6.1
Daily Maximum	50	1 – 56	6.1

[It is noted that there were three excursions during the time period]

TSS Concentration (DMRs = 16)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	2.5 - 17	7.1
Weekly Average	45	2.5 – 17	7.5
Daily Maximum	50	2.5 - 17	7.5

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

BOD Mass (DMRs = 16)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	1.2	0 – 1.25	0.11
Weekly Average	1.8	0 – 2.27	0.18
Daily Maximum	2.0	0 – 2.27	0.21

[It is noted that there were three excursions during the time period]

TSS Mass (DMRs = 16)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	1.2	0 – 0.4	0.10
Weekly Average	1.8	0 – 0.5	0.11
Daily Maximum	2.0	0 – 0.5	0.15

This permitting action carries forward the requirement for a minimum of 85% removal of BOD₅ and TSS pursuant to Chapter 525(3)(III)(a)(3) and (b)(3) of the Department's rules. RHA's waste water treatment system does not have an influent sampling port location that is representative of raw waste water 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*" a reasonable influent value for BOD₅ and TSS may be assumed to be 286 mg/L. 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 until such time that the infrastructure is modified or replaced such that collection of a representative raw influent sample is practical.

This permitting action establishes a monitoring and reporting frequency for BOD₅ and TSS 85% removal of 1/Month to be consistent with monitoring and reporting for BOD₅ & TSS.

- e. Settleable Solids: A previous permitting action established a daily maximum technology based limitation of 0.3 ml/L along with a monitoring frequency of 1/Month. Both are being carried forward in this permitting action. A review of the monthly discharge flow data as reported on the DMR submitted to the Department for the period August 2015 – May 2018 indicates the following:

SS concentration (DMRs = 16)

Value	Limit (ml/L)	Range (ml/L)	Mean (ml/L)
Daily Maximum	0.3	0 - <0.10	<0.08

- f. Fecal coliform bacteria: This permitting action carries forward the quality based monthly average concentration limit of 15 colonies/100 ml (geometric mean) and a daily maximum concentration limit of 50 colonies/100mL (instantaneous level) to be consistent with the limits associated with the National Shellfish Sanitation Program. This permitting action also increases the timeframe when Fecal Coliform Bacteria limits are in effect from May 15 – September 30 to year-round based on a revision to Maine Law 38 M.R.S. §465(3)(B) effective August 2, 2018, and increases the monitoring and reporting frequency from 1/Month back to 1/Week.

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

A review of the seasonal monthly average and daily maximum data as reported on the DMRs submitted to the Department for the period August 2015 – May 2018 indicates the monthly (geometric mean) and daily maximum fecal coliform bacteria values have been reported as follows:

Fecal coliform bacteria (DMRs = 13)

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100ml)
Monthly Average	15	0 – 2,419	247
Daily Maximum	50	0 – 2,419	335

[It is noted that there were five excursions during the time period]

- g. Enterococci Bacteria: This permitting action is establishing monthly average and daily maximum limitations for Enterococci bacteria, 8 col/100ml and 54 col/100ml respectively, and a monitoring and reporting frequency of 1/Month. The bacteria limitations are based on revisions to Maine law 38 M.R.S. §465(B)(3), effective date August 2, 2018. Enterococci bacteria limits are in effect from April 15 – October 31.
- h. Total Residual Chlorine (TRC): A previous licensing action established a daily maximum technology based concentration limit of 1.0 mg/L for TRC along with a 2/Week monitoring requirement. Limitations on TRC are specified to ensure that ambient water quality standards are maintained at all times of the year and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or BPT-based limit. With dilution factors as determined above, end-of-pipe (EOP) water quality-based concentration thresholds for TRC may be calculated as follows:

				Calculated	
Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors		Acute Limit	Chronic Limit
0.013 mg/L	0.0075 mg/L	250:1 (A)	730:1 (C)	3.25 mg/L	5.5 mg/L

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

A review of the daily maximum data as reported on the DMRs submitted to the Department for the period August 2015 – May 2018 indicates the maximum TRC discharged has been as follows;

Total residual chlorine (DMRs = 13)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L) (n=28)
Daily Maximum	1.0	0.40 – 5.00	1.23

[It is noted that there were two excursions during the time period]

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

- i. pH: Pursuant to Department rule found at 06-096 CMR Chapter 525(3)(III)(c), the previous permitting action established a pH range limitation of 6.0 – 9.0 SU, which is considered BPT for secondary treated domestic like waste water. This permitting action is establishing a monitoring and reporting frequency of 1/Year for pH pursuant to 40 CFR §122.44 (i)(2), which states in part; *requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.*
- j. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: Maine law, 38 M.R.S. §414-A and §420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* (toxics rule) sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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

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

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

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

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the Boothbay Register newspaper on or about July 12, 2018. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

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

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

10. RESPONSE TO COMMENTS

Reserved until the end of the formal 30-day Public Notice period.