

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR



PAUL MERCER
COMMISSIONER

December 5, 2018

Mr. Kevin Bernier
Black Bear Hydro Partners, LLC
1024 Central St.
Millinocket, ME 04462
Kevin.bernier@brookfieldrenewable.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0001678
Maine Waste Discharge License #W002570-5R-H-R
Proposed Draft Permit – Milford Hydro Project

Dear Mr. Bernier:

Enclosed is a **proposed draft** MEPDES permit and Maine WDL which the Department proposes to issue for your facility 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/license and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this 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 the close of business **Thursday, January 3, 2019**. 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 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,



Irene Saumur
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc: Gary Brooks, DEP/EMRO
Lori Mitchell, DEP/CMRO
Marelyn Vega, USEPA
Shelley Puelo, USEPA
Environmentalreview.DMR@maine.gov
IFWEnvironmentalreview@maine.gov



DEPARTMENT ORDER

IN THE MATTER OF

BLACK BEAR HYDRO PARTNERS, LLC)	MAINE POLLUTANT DISCHARGE
MILFORD, PENOBSCOT COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
COOLING WATER DISCHARGE)	AND
MILFORD HYDRO PROJECT)	
#ME0001678)	WASTE DISCHARGE LICENSE
#W002570-5R-H-R)	RENEWAL
		APPROVAL

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

APPLICATION SUMMARY

On December 3, 2018, the Department of Environmental Protection (Department) accepted as complete for processing, a renewal application from Black Bear Hydro Partners, LLC for Waste Discharge License (WDL) #W002570-5R-G-R/Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001678, which was issued on March 12, 2014 for a five-year term. The 3/12/14 permit authorized the daily maximum discharge of 18,000 gallons per day of non-contact cooling water from one outfall (Outfall #001) from the Milford Hydro Project to the Penobscot River, Class B, in Milford, Maine.

PERMIT SUMMARY

This permitting action carries forward all the terms and conditions established in the previous permitting action except that it is increasing the discharge flow amount and number of outfalls to more accurately reflect maximum flow specifications and the configuration of the facility.

CONCLUSIONS

BASED on the findings in the attached **Proposed Draft** Fact Sheet dated December 5, 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 met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S. §414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the application of BLACK BEAR HYDRO PARTNERS, LLC to discharge a daily maximum of 26,640 gallons per day of non-contact cooling water at a temperature not to exceed 95 degrees Fahrenheit from four outfalls at the Milford Hydro Project to the Penobscot River, Class B, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,”* revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the 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)* (last amended June 9, 2018)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS ____ DAY OF _____, 2019.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
Melanie Loyzim, Acting Commissioner

Date of initial receipt of application: December 3, 2018

Date of application acceptance: December 3, 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. The discharge is limited to a flow of 26,640 gallons per day and a daily maximum temperature of 95°F.
2. The permittee must not discharge wastewater that contains a visible oil sheen, foam, or floating solids at any time that would impair the designated uses or habitat characteristics of the receiving waters or would otherwise lower the quality of the receiving water below its assigned classification.
3. The permittee must not discharge wastewater that imparts color, taste, turbidity, toxicity, or other properties that would impair the designated uses or habitat characteristics of the receiving waters or would otherwise lower the quality of the receiving water below its assigned classification.
4. The permittee must notify the Department immediately of the discharge of any pollutants other than heat from the facility. The permittee must also notify the Department of any changes in facility design, operation or generating capacity that may affect the flow or temperature of the cooling water discharge.
5. All miscellaneous facility leakage and lubrication waters that may become contaminated with oil or grease are subject to Best Management Practices (BMPs) designed to prevent the release of contaminants to the waters of the State. The permittee must develop BMPs and must make the BMPs available in writing for the Department to review and comment upon request. BMPs must consist of, but not be limited to, the following, as appropriate: development and implementation of a spill prevention plan; use of oil absorbent pads or booms and/or physical berms to contain spills or leaks of hydraulic and lubrication oils; and the treatment of water collected in floor drains and sumps through an oil/grease trap or oil-water separator. Where bearing cooling water is used, BMPs must include the maintenance of a written log or record of bearing oil levels and maintenance activities. Where floor drains and sumps are used, BMPs must include (1) written procedures for the cleaning and maintenance of any oil-grease trap, oil skimmer or oil-water separator and (2) maintenance of a written log or record of visual inspections of sumps for oil and grease and of actions taken to prevent the discharge of oil or grease from the facility.

SPECIAL CONDITIONS

B. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on January 1, 2019; 2) the terms and conditions of this permit; and 3) only from Outfalls #001 - #004. 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.

C. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee must notify the Department of any substantial change in the volume or character of pollutants being discharged.

D. REOPENING OF PERMIT FOR MODIFICATIONS

In accordance with 38 M.R.S. §414-A(5) and based upon site inspections, additional site-specific or any other pertinent information or test results obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to establish limitations or require additional monitoring, inspections and/or reporting based on the new information.

E. SEVERABILITY

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

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

Proposed Draft FACT SHEET

DATE: **DECEMBER 5, 2018**

PERMIT NUMBER: **#ME0001678**

LICENSE NUMBER: **#W002570-5R-H-R**

NAME AND ADDRESS OF APPLICANT:

**BLACK BEAR HYDRO PARTNERS, LLC
1024 CENTRAL ST.
MILLINOCKET, ME 04462**

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

**MILFORD HYDRO PROJECT
44 DAVENPORT STREET
MILFORD, MAINE 04461
PENOBSCOT COUNTY**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**KEVIN BERNIER
(207723-4341 ext #118
EMAIL: kevin.bernier@brookfieldrenewable.com**

1. APPLICATION SUMMARY

Application: On December 3, 2018, the Department of Environmental Protection (Department) accepted as complete for processing, a renewal application from Black Bear Hydro Partners, LLC for Waste Discharge License (WDL) #W002570-5R-G-R/Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001678, which was issued on March 12, 2014 for a five-year term. The 3/12/14 permit authorized the daily maximum discharge of 18,000 gallons per day of non-contact cooling water from one outfall (Outfall #001) from the Milford Hydro Project to the Penobscot River, Class B, in Milford, Maine.

2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action carries forward all the terms and conditions established in the previous permitting action except that it is increasing the discharge flow amount and number of outfalls to more accurately reflect maximum flow specifications and the configuration of the facility.

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

March 28, 1991 - The Department issued WDL #W002570-57-A-R to Bangor Hydro Electric Company for a five-year term.

March 8, 1999 - The Department issued WDL #W002570-5R-B-R to Bangor Hydro Electric Company for a five-year term.

April 23, 1999 - The Department issued transfer order #W002570-5R-C-T transferring said WDL from Bangor Hydro Electric Company to PPL Maine LLC.

January 12, 2001 – The State of Maine received authorization from the United States Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permitting program in Maine.

April 1, 2004 – The Department issued MEPDES permit ME0001678/WDL #W002570-5R-D-R to PPL Maine LLC for a five-year term.

April 15, 2009 – The Department issued combination MEPDES permit ME0001678/WDL #W002570-5R-E-R to PPLMaine LLC for a five-year term.

September 29, 2009 - The Department issued transfer order #W002570-5R-F-T transferring the April 15, 2009 WDL from to PPL Maine LLC to Black Bear Hydro Partners, LLC (BBHP).

March 12, 2014 – The Department issued combination MEPDES permit ME0001678/WDL #W002570-5R-G-R to BBHP for a five-year term.

December 3, 2018 - BBHP submitted a timely application for renewal of combination MEPDES permit #ME0001678 / WDL #W002570-5R-G-R. The application was accepted for processing on December 3, 2018 and issued WDL #W002570-5R-H-R.

- c. Source Description: The source of the discharge is a hydroelectric generating facility. The discharge consists of non-contact cooling water. The discharge flow rate is variable, depending on cooling needs, up to a maximum flow of 26,640 gallons per day (maximum cooling system capacity, based on information from applicant). The discharge occurs from four outfalls.

2. PERMIT SUMMARY (cont'd)

Other miscellaneous discharges from outfall 001 consist of shaft lubrication waters, foundation leakage waters, and/or leakage from wicket gates and other equipment. In the event of leaks, spills or equipment failure, these sources may become contaminated with hydraulic or lubrication oil and grease.

All miscellaneous facility leakage and lubrication waters that may become contaminated with oil or grease are subject to Best Management Practices (BMPs) designed to prevent the release of contaminants to the waters of the State. The permittee must develop written BMPs and must make the BMPs available to the Department for review and comment upon request.

BMPs must consist of, but not be limited to, the following, as appropriate: development and implementation of a spill prevention plan; use of oil absorbent pads or booms and/or physical berms to contain spills or leaks of hydraulic and lubrication oils; and the treatment of water collected in floor drains and sumps through an oil/grease trap or oil-water separator. Where bearing cooling water is used, BMPs must include the maintenance of a written log or record of bearing oil levels and maintenance activities. Where floor drains and sumps are used, BMPs must include (1) written procedures for the cleaning and maintenance of any oil-grease trap, oil skimmer or oil-water separator and (2) maintenance of a written log or record of visual inspections of sumps for oil and grease and of actions taken to prevent the discharge of oil or grease from the facility. See **Attachment A** of this Fact Sheet for a flow schematic for the facility.

3. CONDITIONS OF PERMITS

Conditions of licenses, 38 M.R.S. §414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S. §420 and 06-096 CMR 530 require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (last amended 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

Classification of major river basins, 38 M.R.S., §467(7)(A)(5) classifies the “main stem of the Penobscot River from the West Enfield Dam, including Stillwater Branch, to the Veazie Dam, including all impoundments”, which includes the reach of river subject to Black Bear Hydro Partners, LLC, Milford Hydro Project, as Class B. *Standards for classification of fresh surface waters*, 38 M.R.S. §465(3) describes the standards for Class B waters.

5. REGULATIONS RELATING TO TEMPERATURE

Regulations Relating to Temperature 06-096 CMR 582 (last amended February 18, 1989), states that no discharge shall cause the ambient temperature of any freshwater body to be raised more than 5 degrees Fahrenheit, nor shall any discharge cause the temperature of any waters to exceed the USEPA national ambient water quality criteria established to protect all species of fish that are indigenous to the receiving waters. When the ambient temperature of any body of water naturally exceeds the applicable USEPA criteria, no thermal discharge may be allowed which alone or in combination with other discharges would raise the ambient temperature of the receiving water more than 0.5 degrees Fahrenheit.

The Department has established that cold water fish species are indigenous to all Maine rivers and streams. USEPA has established maximum temperatures for the protection of growth and survival of cold water fish as follows: a weekly average temperature of 66 degrees Fahrenheit; and a daily maximum temperature of 73 degrees Fahrenheit.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

The Department has calculated that, under worst case conditions of maximum cooling water flow (26,640 gallons per day), maximum cooling water temperature (assumed 95 degrees Fahrenheit, based on staff analysis of industry data), and 7Q10 receiving water flow (2,760 cfs), and without any treatment to reduce thermal loading, the discharge will raise the ambient temperature of the receiving water by less than 1/1,000th of a degree Fahrenheit. Therefore, the Department has determined that neither effluent limitations nor monitoring requirements are necessary to ensure that applicable water quality standards are met.

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

7. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News on or about November 30, 2018. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

8. DEPARTMENT CONTACTS

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

Irene Saumur
Department of Environmental Protection
Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333-0017
Telephone: (207) 485-2404 Fax: (207) 287-3435
irene.saumur@maine.gov

7. RESPONSE TO COMMENTS

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