



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

Certified #7018 1130 0001 7264 6070

July 31, 2023

Mr. Lewis Pinkham, Town Manager
Town of Milbridge
P.O. Box 66
Milbridge, Maine 04658

RE: Notice of Violation, Town of Milbridge, WDL#000862-6B-G-R/MPDES#ME0100404, Notice of Violation #304

Dear Mr. Pinkham,

Enclosed is a Notice of Violation (NOV) alleging the Town's failure to comply with Maine's Waste Discharge License Special Condition A, Standard Condition D(1) and 38 M.R.S. §414(5). The NOV relates to a failure to complete required effluent monitoring, failure to report the missed monitoring, and failure to report exceedances. These violations are more fully described in the attached NOV. The Department offers technical assistance which may assist you in returning to compliance and avoiding further enforcement action. If you require technical assistance concerning this NOV, please contact Gary Brooks at gary.r.brooks@maine.gov or (207) 592-2795.

An NOV is an administrative notice that is required by Maine law to be sent to parties the Department believes are responsible for violations of Maine's laws, Department's rules, and/or orders, prior to initiating civil enforcement actions. A failure to take the actions described in this NOV, including your contacting me within the expected time deadline, may result in a decision to pursue additional enforcement actions. I appreciate your immediate attention to this matter.

Sincerely,

Pamela Parker, DEP Enforcement Manger
Division of Water Quality
Bureau of Water Quality
(207) 485-3038
pamela.d.parker@maine.gov

Gary Brooks, DEP
Mike Harris, Operator

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
207-287-5688 FAX: 207-287-7526

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
207-941-4570 FAX: 207-941-3584

PORTLAND
312 CANGO 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
BUREAU WATER QUALITY
 17 State House Station
 Augusta, Maine 04333-0017
 Telephone: (207) 287-7826

Notice of Violation

PART I: GENERAL INFORMATION

<u>ALLEGED VIOLATOR'S NAME:</u>	<u>DOCKET NUMBER:</u>
Town of Milbridge	304
<u>ALLEGED VIOLATOR'S MAILING ADDRESS:</u>	<u>DATE ISSUED:</u>
P.O. Box 66	July 31, 2023
Milbridge, ME 04658	<u>CERTIFIED MAIL NUMBER:</u>
Mill Street, Milbridge, Maine	7018 1130 001 7264 6070
<u>POINT OF CONTACT (IF DIFFERENT FROM ALLEGED VIOLATOR):</u>	<u>TELEPHONE NUMBER:</u>
Lewis Pinkham, Town Manager	(207) 546-2422

PART II: INFORMATION CONCERNING THE ALLEGED VIOLATION

TOWN OF MILBRIDGE IS BELIEVED TO BE RESPONSIBLE FOR THE FOLLOWING VIOLATION(S) OF MAINE'S ENVIRONMENTAL LAWS, RULES, OR DEPARTMENT ORDERS.

SUMMARY OF FACTS ALLEGED AS BASIS FOR VIOLATION(S):

1. The Town of Milbridge ("Town") is authorized to discharge a monthly average flow of 0.070 million gallons per day ("MGD") of secondary-treated sanitary wastewater from a publicly owned treatment works via designated Outfall # 001A to the Narraguagus River, a Class SB water, in Milbridge, Maine under the Waste Discharge License #W000862-6B-G-R and Maine Pollutant Discharge Elimination System Permit #ME0100404, herein after collectively referred to as the ("Permit").
2. On January 4, 2023, the Maine Department of Environmental Protection ("Department") issued to the Town a Letter of Warning ("LOW") for failing to conduct the required 3/week compliance testing for Settleable Solids ("SS") and failing to report the missed October 23, 2022, weekly test. The Department became aware of the missing SS test while reviewing the Town's submitted 49 form attached to the Discharge Monitoring Report ("DMR"). The LOW described Standard Condition D, the permit requirement for 24-hour and 5-day notifications of non-compliance. The Town's Operator of Record is contract operator Mike Harris. The Department emailed the LOW to the Town Manager and cc'd Mr. Harris. The Town made up the SS test the week of November 6, 2022 and the Department was informed of this on May 9, 2023.
3. On May 15, 2023, while reviewing the April 2023 49 form and DMR, the Department became aware that the Town failed to conduct another 3/week SS test, as well as a 3/week pH test for the week of April 2 –

DISTRIBUTION:	Case File	<input checked="" type="checkbox"/>	Enforcement Director	<input checked="" type="checkbox"/>	AG's Office	<input type="checkbox"/>	EPA	<input type="checkbox"/>	Other:	<input type="checkbox"/>
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April 8, 2023. As of today, the Department has yet to receive communication from the Town that the Town has made up the missed tests and if so, on which date(s). The Town also failed to report to the Department the reason for the lapse in testing.

4. On May 15, 2023, while reviewing the April 2023 49 form and DMR, the Department became aware that the Town exceeded the biological oxygen demand five-day (“BOD₅”) daily maximum, BOD₅ weekly average maximum, BOD₅ monthly average maximum, BOD₅ percent removal and total suspended solids (“TSS”) weekly and monthly averages following a composite sample collected on April 26-27, 2023. The results as reported in the DMR are summarized in the following table.

<i>Parameter</i>	BOD ₅ daily max.	BOD ₅ weekly ave.	BOD ₅ monthly ave.	BOD ₅ % removal	TSS weekly ave.	TSS monthly ave.
Limit	50 mg/L	45 mg/L	30 mg/L	≥85%	45 mg/L	30 mg/L
DMR Reported Result	66 mg/L	66 mg/L	47 mg/L	84%	46 mg/L	40 g/L

5. On May 25, 2023, the Department issued a LOW to the Town for failing to conduct the required 3/week compliance testing for a SS test and for failing to report the missed test for the week of March 5, 2023. As previously occurred in October of 2022, the Department became aware of the missing SS test while reviewing the submitted 49 form attached to the DMR. Again, the Department described Standard Condition D requirements for 24-hour and 5-day notifications of non-compliance. The Town and Operator of Record were emailed this LOW.
6. A sample collected between May 29-30, 2023 caused exceedances of the BOD₅ monthly average and the TSS monthly and weekly averages and TSS percent removal. The laboratory informed the Town of the lab results in a letter dated June 5, 2023. On June 17, 2023, twelve days after the Town was provided the data, the Department received a Discharge Incident Report from the Town’s contract Operator for one BOD₅ exceedance and three TSS exceedances. The Department also received the May DMR on June 20, 2023, which was due five days earlier. The results as reported in the DMR are summarized in the following table.

<i>Parameter</i>	BOD ₅ monthly av.	TSS weekly av.	TSS monthly av.	TSS percent removal
Limit	30 mg/L	45 mg/L	30 mg/L	≥85%
DMR Reported Result	38 mg/L	49 mg/L	46 mg/L	83%

LIST SPECIFIC VIOLATIONS BY APPLYING FACTS TO SPECIFIC STATUTE(S), RULE(S), OR ORDER(S) VIOLATED:

Special Condition A states in relevant part:

*The permittee is authorized to discharge secondary treated waste waters from **OUTFALL #001** to the Narraguagus River. Such discharges shall be limited and monitored by the permittee as specified below.*

Effluent Characteristic	Discharge Limitations						Minimum Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow ⁽³⁰⁰⁵⁰⁾	70,000 gpd ⁽¹⁰⁷⁾	---	Report gpd ⁽¹⁰⁷⁾	---	---	---	Continuous ⁽⁹⁹⁻⁹⁹⁾	Recorder ⁽¹⁰⁰⁾
Biochemical Oxygen Demand (BOD ₅) ^(1a) ⁽¹⁰⁰⁵¹⁰¹⁾	18 lbs/Day ⁽²⁶⁾	26 lbs/Day ⁽²⁶⁾	29 lbs/Day ⁽²⁶⁾	30 mg/L ⁽¹⁵⁾	45 mg/L ⁽¹⁹⁾	50 mg/L ⁽¹⁹⁾	2/Month ^(02/30)	24 Hr. Composite ⁽²⁴⁾
BOD ₅ % Removal ^(1b) ⁽¹⁸¹⁰¹⁰⁾	---	---	---	85% ⁽²³⁾	---	---	1/Month ^(01/30)	Calculate ⁽¹⁰⁴⁾
Total Suspended Solids (TSS) ^(1a) ⁽¹⁰⁰⁵⁴⁵⁾	18 lbs/Day ⁽²⁶⁾	26 lbs/Day ⁽²⁶⁾	29 lbs/Day ⁽²⁶⁾	30 mg/L ⁽¹⁵⁾	45 mg/L ⁽¹⁹⁾	50 mg/L ⁽¹⁹⁾	2/Month ^(02/30)	24 Hr. Composite ⁽²⁴⁾
TSS % Removal ^(1b) ⁽²¹⁰¹¹⁾	---	---	---	85% ⁽²³⁾	---	---	1/Month ^(01/30)	Calculate ⁽¹⁰⁴⁾
Settleable Solids ⁽¹⁰⁰⁵⁴⁵⁾	---	---	---	---	---	0.3 mL ⁽²⁵⁾	3/Week ^(03/07)	Grab ⁽¹⁰²⁾
Fecal Coliform Bacteria ⁽²⁾ ⁽¹⁰⁰⁵⁵⁾	---	---	---	15/100 mL ⁽³⁾ ⁽¹³⁾	---	50/100 ml ⁽¹³⁾	2/Month ^(02/30)	Grab ⁽¹⁰²⁾
Total Residual Chlorine ⁽⁴⁾ ⁽¹⁰⁰⁵⁶⁾	---	---	---	---	---	0.052 mg/L ⁽¹⁹⁾	1/Day ^(01/01)	Grab ⁽¹⁰²⁾
pH (Std. Units) ⁽¹⁰⁰⁴⁶⁾	---	---	---	---	---	6.0-9.0 ⁽¹²⁾	3/Week ^(03/07)	Grab ⁽¹⁰²⁾
Copper (Total) ⁽¹⁰¹⁰²⁾	0.047 lbs/Day ⁽²⁶⁾	---	0.012 lbs/Day ⁽²⁶⁾	Report mg/L ⁽¹⁹⁾	---	Report mg/L ⁽¹⁹⁾	1/Quarter ^(01/90)	24 Hr. Composite ⁽²⁴⁾

By exceeding effluent limitations including five BOD₅ and five TSS sample limits in April and May of 2023, and failing to collect the required number of weekly SS and pH samples as described above, the Town violated Special Condition A of its Permit.

Standard Condition (D)(1)(f)(i) states in relevant part:

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance

Standard Condition (D)(1)(ii)(B&C) states in relevant part:

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

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

By failing to report in a timely fashion Permit exceedances and failure to conduct required monitoring the Town violated Standard Condition (D)(1)(f)(i) and (D)(1)(f)(ii)(B) & (C) of its Permit.

38 M.R.S. § 414(5) states in relevant part:

5. Unlawful to violate license. After the issuance of a license by the department, it is unlawful to violate the terms or conditions of the license, whether or not such violation actually lowers the quality of the receiving waters below the minimum requirements of their classification.

By failing to adhere to all permit requirements, the Town violated 38 M.R.S. § 414(5).

REQUESTED CORRECTIVE ACTION(S):

1. **Within 30 days receipt of this NOV submit to the Department all tests used to make-up the week of April 2, 2023 missed tests. Continue to conduct all required monitoring as per the Permit.**
2. **The Department relies on facility operators to self-report any permit violations to the Department when they become aware of them. Immediately (within 24-hours) notify the Department of permit violations when the lab notifies you with laboratory results.**
3. **Within 30 days receipt of this NOV, submit a plan to the Department that describes how the Town will comply with required testing and reporting requirements. The plan must include, but is not limited to:**
 - **Details of how to provide oversight of the onsite Operator – what and how frequently does the Operator of Record review of the onsite Operator’s work?**
 - **The Operator of Record should review the testing conducted by Thursday of testing weeks, which will give the Town two more days in the week to make up a required but not yet performed test.**
 - **Details of who from the Town will report to the Department non-compliance and who the Town will contact in the Department and their contact information.**
4. **Within 15 days of receipt of this NOV, submit to the Department a signed certified statement by your Operator of Record that he has received and understands the 24-hour and 5-day notification requirements for reporting non-compliance to the Department.**

TIMELY COOPERATION ON THE CORRECTIVE ACTIONS REQUESTED IN THIS NOTICE OF VIOLATION AND CONTACTING THE CASE MANAGER BY PHONE OR IN WRITING WITHIN **5 DAYS** OF RECEIVING THIS NOV ARE TWO SIGNIFICANT FACTORS THAT MAY AFFECT WHETHER, OR THE EXTENT TO WHICH, THE DEPARTMENT PURSUES FURTHER ENFORCEMENT ACTION. THE DEPARTMENT OFFERS TECHNICAL ASSISTANCE WHICH MAY ASSIST YOU IN RETURNING TO COMPLIANCE AND AVOIDING FURTHER ENFORCEMENT ACTION. IF YOU REQUIRE TECHNICAL ASSISTANCE CONCERNING THIS NOTICE OF VIOLATION, PLEASE CONTACT THE CASE MANAGER IDENTIFIED BELOW.

PART III: DEPARTMENT ENFORCEMENT CONTACT

TELEPHONE NUMBER:

Pam Parker

207-485-3038

State of Maine, Department of Environmental Protection

By: 