



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

April 14, 2009

Mr. Wallace M. Bell
Clean Harbors Environmental Services, Inc.
221 Sutton Street
North Andover, MA 01845

RE: Maine Waste Discharge License (WDL) Application #W000647-5S-F-R
Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0021571
Proposed Permit-Clean Harbors Environmental Services

Dear Mr. Bell:

Enclosed please find a copy of your **final** Maine MEPDES Permit/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 license 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.*"

If you have any questions regarding this matter, please feel free to contact me at (207) 287-7658 or at phyllis.a.rand@maine.gov.

Sincerely,

A handwritten signature in cursive script that reads "Phyllis Arnold Rand".

Phyllis Arnold Rand
Division of Water Quality Management
Bureau of Land and Water Quality

Enclosure

cc: Fred Gallant, DEP/SMRO Doug Koopman, USEPA
Sandy Mojica, USEPA Lori Mitchell, DMU

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550 FAX: (207) 624-6024
RAY BLDG., HOSPITAL ST.

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

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

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507



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

DEPARTMENT ORDER

CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.)	MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
S. PORTLAND, CUMBERLAND COUNTY, ME)	
BULK FUEL STORAGE FACILITY)	AND
W000647-5S-F-R)	WASTE DISCHARGE LICENSE
ME0021571)	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.A., Section 414-A et. seq., and applicable regulations, the Department of Environmental Protection (“Department,” hereinafter) has considered the application of CLEAN HARBORS ENVIRONMENTAL SERVICES, INC., with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Clean Harbors Environmental Services, Incorporated (“CHESI,” hereinafter) has submitted an application to the Department to renew Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0021571/Waste Discharge License (WDL) #W000647-5S-E-R (“permit,” hereinafter), which was issued on July 29, 2004, and is due to expire on July 29, 2009. The permit authorizes CHESI to discharge treated storm water runoff at a daily maximum flow rate of 260 gallons per minute (gpm) and hydrostatic test water at a daily maximum flow rate of 2.3 million gallons per day (MGD) to Rolling Mill Pond Outlet, Class C, in South Portland, Maine. See **Attachment A** of this permit for a facility site map.

PERMIT SUMMARY

This permitting action is carrying forward all of the terms and conditions of the 7/29/04 permitting action.

CONCLUSIONS

BASED on the findings in the attached draft Fact Sheet dated April 14, 2009, 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 MRS Section 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 natural resource, that water quality will be maintained and protected;
 - c. 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.

ACTION

THEREFORE, the Department APPROVES the application of the CLEAN HARBORS ENVIRONMENTAL SERVICES, INC. to discharge up to a daily maximum of 260 GALLONS PER MINUTE of treated storm water runoff from Outfall #001 and up to a daily maximum of 2.3 MILLION GALLONS PER DAY of hydrostatic testing water from Outfall #002 from a bulk fuel storage and transfer facility to Rolling Mill Pond Outlet, Class C, subject to the attached conditions and all applicable standards and regulations:

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 expires five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application February 2, 2009.

Date of application acceptance February 3, 2009.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The permittee is authorized to discharge treated storm water runoff to Rolling Mill Pond Outlet. Such treated waste water discharges shall be limited and monitored by the permittee as specified below:

OUTFALL #001 - Storm water runoff after oil/water separator during first hour of discharge.⁽¹⁾

Effluent Characteristic		Discharge Limitations			Minimum Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type As specified
Flow [50050]	---	---	---	260 gpm ⁽²⁾ [78]	---	---
Total Suspended Solids [00530]	---	---	50 mg/L ⁽³⁾ [19]	100 mg/L [19]	1/ Quarter [01/90]	Grab ⁽⁴⁾ [GR]
Oil & Grease [00552]	---	---	---	15 mg/L [19]	1/Quarter [01/90]	Grab ⁽⁴⁾ [GR]

SPECIAL CONDITIONS

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

OUTFALL #002 - Hydrostatic testing water-Administrative Outfall^(1,2,5)

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly <u>Average</u> as specified	Daily <u>Maximum</u> as specified	Monthly <u>Average</u> as specified	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Flow [50050]	---	---	---	2.3 MGD [03]	1/Discharge [01/DS]	Measure [MS]
Total Suspended Solids [00530]	---	---	---	50 mg/L [19]	1/Discharge [01/DS]	Grab [GR]
Oil & Grease [00552]	---	---	---	15 mg/L [19]	1/Discharge [01/DS]	Grab [GR]
Total Residual Chlorine [50060]	---	---	---	19 ug/L ⁽⁶⁾ [28]	1/Discharge [01/DS]	Grab [GR]

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes:

1. Sampling – Sampling and analysis must be conducted in accordance with; a) methods approved in Title 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. Laboratories that analyze the permittee's compliance samples are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

All detectable analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RL's) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit.

2. Flow – The flow through the oil/water separator shall consist of only storm water runoff and hydrostatic testing water. With the exception of hydrostatic testing water, the direct or indirect discharge of liquids from petroleum product pipelines, transport tanks, vessels or storage tanks through the oil/water separator is not authorized by this permit. No chemical treatment such as dispersants, emulsifiers or surfactants may be added to the oil/water separator or any waste water discharge stream contributing flow to the separator.

At no time shall the flow through the oil/water separator exceed the continuous design flow of 260 gpm of the separator. The replacement or modification of the existing flow constriction device (control valve) requires prior approval by the Department.

3. Total Suspended Solids (TSS) – Twelve-month rolling average. For the purposes of this permitting action, the twelve-month rolling average calculation is based on the test results for the most recent twelve-month period. Months when there is no discharge are not to be included in the calculations. See page 6 of the Fact Sheet of this permit for an example calculation.

SPECIAL CONDITIONS

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

Footnotes:

4. First-hour (“first flush”) grab samples discharged from Outfall #001 from one significant storm event per calendar quarter shall be tested for TSS and oil & grease. “Significant storm event” is defined as any event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable storm event.
5. Outfall #001 is administratively changed to Outfall #002 upon commencement of discharge of hydrostatic test water. Samples shall be collected prior to discharge from the pipe(s) or tank(s) being tested.
6. Total residual chlorine (TRC) – Compliance with the daily maximum limitation is based on EPA’s current minimum level (ML) of detection of 50 ug/L (0.05 mg/L). All analytical test results shall be reported to the Department, including results which are detected below the ML. If the analytical test result is below the ML, the result shall be reported as <X where X is the detection level achieved by the laboratory for that test.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time that would impair the usages designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharge shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. OIL/WATER SEPARATOR MAINTENANCE

The permittee shall maintain an up-to-date operation and maintenance plan for the oil/water separator. The plan shall include, but not be limited to, measures to ensure the separator performs within the designed performance standards of the system, is maintained on a routine basis to maximize the design capacity and efficiency of the system, and that adequate staffing and training of personnel is provided to ensure compliance with discharge limitations.

SPECIAL CONDITIONS

C. OIL/WATER SEPARATOR MAINTENANCE (cont'd)

The operation and maintenance plan shall remain on site at all times and will be subject to periodic inspection by Department personnel.

For the purposes of minimizing suspended solids in the storm water directed to the oil/water separator, the permittee shall implement best management practices (BMP's) for erosion and sedimentation control. See Department publication entitled, Maine Erosion And Sedimentation Control BMP's for guidance. The permittee shall periodically inspect, maintain and repair erosion and sedimentation control structures as necessary.

D. HYDROSTATIC TEST WATER

Tanks and pipes being hydrostatically tested must be clean of product and all construction debris, including sandblasting grit, prior to testing and discharge through Administrative Outfall #002. The discharge must be dechlorinated if test results indicate that discharged waters will violate permit limits. The permittee shall notify the Department of an intended discharge of hydrostatic test water at least three days, excluding weekends, prior to the discharge.

E. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

CHESI shall develop, maintain and periodically update the Storm Water Pollution Prevention Plan (SWPPP) for the facility. As the site or any operations conducted on it have changed or are expected to change materially or substantially, the permittee shall modify its SWPPP as necessary to include such changes and notify the Department and the EPA within 90 days of such modifications to the plan. The permittee shall maintain a copy of the SWPPP and any subsequent revisions at the terminal and shall make the plan available to any Department or EPA representative upon request.

The SWPPP requirements are intended to facilitate a process whereby CHESI thoroughly evaluates potential pollution sources at the terminal and selects and implements appropriate measures to prevent or control the discharge of pollutants in storm water runoff. The process involves the following four steps: (1) formation of a team of qualified facility personnel who will be responsible for preparing the SWPPP and assisting the terminal manager in its implementation; (2) assessment of potential storm water pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent storm water contamination and comply with the terms and conditions of the permit.

F. UNAUTHORIZED DISCHARGES

CHESI is authorized to discharge only in accordance with the terms and conditions of this permit and only from Outfall #001 and Outfall #002 (Administrative Outfall). Discharges of

SPECIAL CONDITIONS

F. UNAUTHORIZED DISCHARGES (cont'd)

waste water from any other point source are not authorized under this permit, but shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

G. MONITORING AND REPORTING

Monitoring results shall be summarized for each calendar quarter and reported on separate Discharge Monitoring Report Forms provide by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the Discharge Monitoring Report and all other reports required herein shall be submitted to the following address:

Maine Department of Environmental Protection
Division of Water Quality Management
Southern Maine Regional Office
Bureau of Land & Water Quality
312 Canco Road
Portland, ME 04103

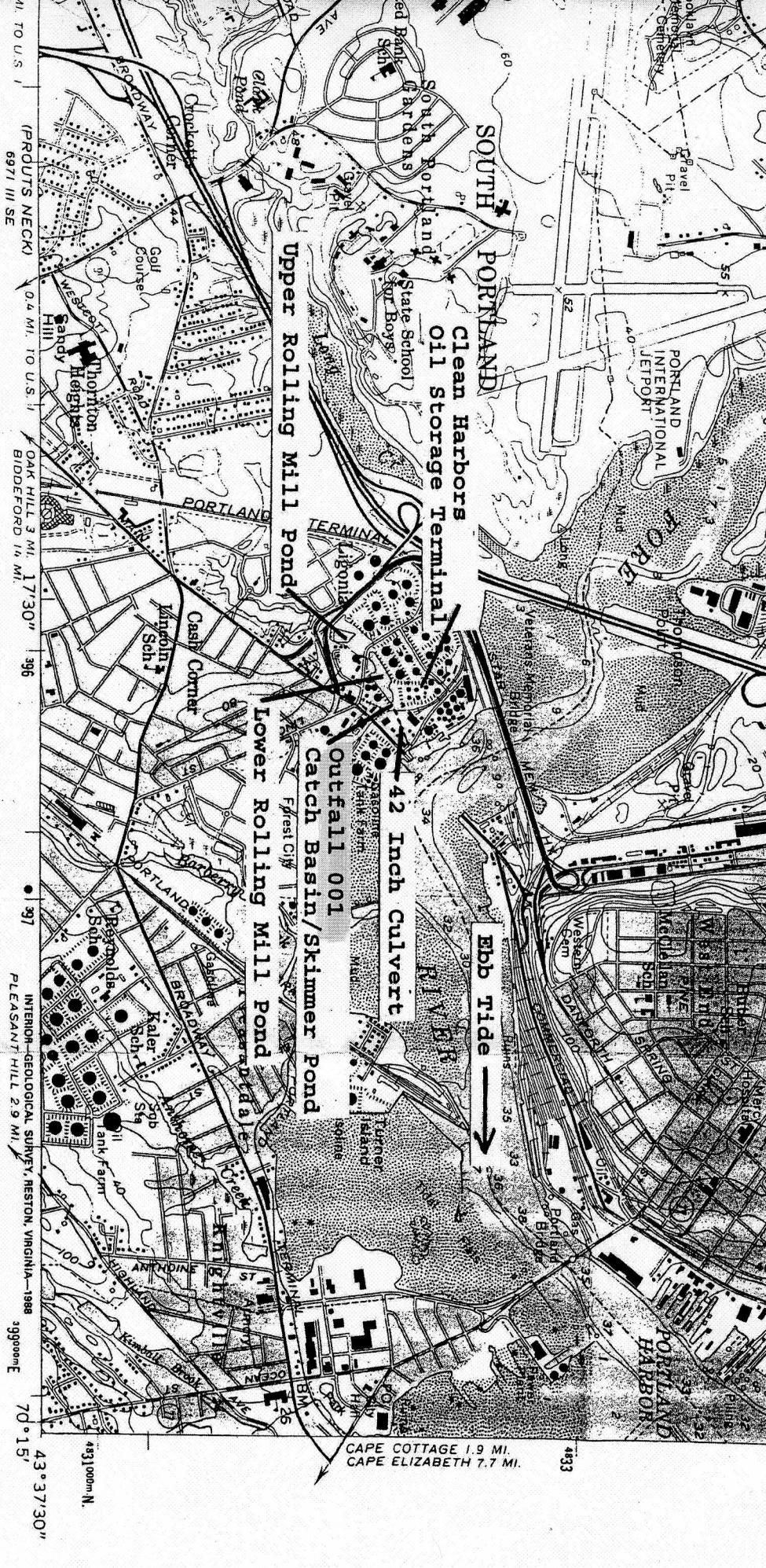
H. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results in the 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 anytime 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.

I. 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 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.

ATTACHMENT A



SOUTH PORTLAND

Clean Harbors Oil Storage Terminal

Upper Rolling Mill Pond

Lower Rolling Mill Pond

42 Inch Culvert

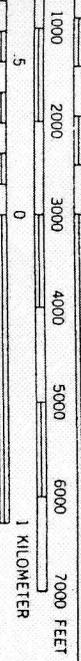
Outfall 001

Catch Basin/Skimmer Pond

Ebb Tide →

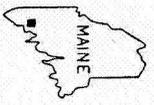
REVEREND RIVER

SCALE 1:24,000



CONTOUR INTERVAL 20 FEET
 NATIONAL GEODETIC VERTICAL DATUM OF 1929
 ELEVATIONS AND SOUNDINGS IN FEET—DATUM IS MEAN LOW WATER
 THE MEAN RANGE OF TIDE IS APPROXIMATELY 8.9 FEET

QUADRANGLE LOCATION



ROAD CLASSIFICATION

- Heavy-duty —————
- Medium-duty - - - - -
- Light-duty - - - - -
- Unimproved dirt = = = = =
- U.S. Route ○
- Interstate Route ○
- State Route ○

PORTLAND WEST, ME.

NE/4 PORTLAND 15' QUADRANGLE
 43070-F3-TF-024

1956
 PHOTOREVISED 1978
 DMA 6971 III NE—SERIES V811

MAP COMPLETES WITH NATIONAL MAP ACCURACY STANDARDS
 FOR SALE BY U.S. GEOLOGICAL SURVEY
 RESTON, COLORADO 80225, OR RESTON, VIRGINIA 22092

Revisions shown in purple compiled by the Geological Survey
 from aerial photographs taken 1975. This information
 not field checked. Map edited 1978

CAPE COTTAGE 1.9 MI.
 CAPE ELIZABETH 7.7 MI.

CAPE ELIZABETH
 6971 III SW

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **April 14, 2009**

PERMIT NUMBER: **ME0021571**
LICENSE NUMBER: **W000647-5S-F-R**

NAME AND ADDRESS OF APPLICANT:

**Clean Harbors Environmental Services Inc.
221 Sutton Street
North Andover, MA 01845**

COUNTY: **Cumberland**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**17 Main Street
South Portland, Maine 04106**

RECEIVING WATER AND CLASSIFICATION: **Rolling Mill Outlet Pond, Class C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**Mr. Wallace M. Bell
(978) 687-5042
bellm@cleanharbors.com**

1. APPLICATION SUMMARY

Clean Harbors Environmental Services, Incorporated ("CHESI," hereinafter) has submitted an application to the Department to renew Maine Pollutant Discharge Elimination System Permit (MEPDES)#ME0021571/Waste Discharge License (WDL) #W000647-5S-E-R ("permit," hereinafter), which was issued on July 29, 2004, and is due to expire on July 29, 2009. The permit authorizes CHESI to discharge treated storm water runoff at a daily maximum flow rate of 260 gallons per minute (gpm) and hydrostatic test water at a daily maximum flow rate of 2.3 million gallons per day (MGD) to Rolling Mill Pond Outlet, Class C, in South Portland, Maine.

2. PERMIT SUMMARY

- a. Terms and conditions - This permitting action is carrying forward all of the terms and conditions of the 7/29/04 permitting action.

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

August 30, 1999 - The EPA issued NPDES permit renewal #ME0021571 for a five-year term.

October 27, 1999 – The Department issued WDL #W000647-5S-D-R renewal for a five-year term.

July 29, 2004 – The Department issued MEPDES permit/WDL #ME0021571/W000647-5S-E-R for a five-year term.

February 2, 2009 – CHESI submitted an application to the Department to renew MEPDES Permit #ME0021571/WDL #W000647-5S-E-R.

- c. Source Description: The CHESI facility is engaged in the storage and distribution of refined petroleum products such as distillate oils. The facility, which also serves as a field services office, handles waste gasoline which is transported via tractor-trailer trucks. The facility also has a license from the Department to conduct truck-to-truck storage and transfer of containerized hazardous wastes.

The CHESI site encompasses approximately 6.2 acres with 10 above-ground storage tanks having a gross capacity of approximately 191,000 barrels (8,022,000 gallons). In addition to tankage, there is an extensive above-ground and below-ground network of piping. A marine docking facility for transferring product from ship-to-shore is no longer in use but sometimes barges belonging to the State of Maine dock there. There is no transfer to or from the barges.

Storm water from the facility's hazardous waste truck-to-truck transfer area/truck rack is inspected prior to being discharged through plugged holes in the bermed area to the parking lot catch basin and sump, from where it is then pumped to the tank farm. If the storm water is deemed to be unsuitable for discharge from the berm, it is pumped into a tanker truck and sent off-site to a licensed treatment/disposal facility. Storm water from the parking lot, which is used for employee and company vehicles, fueling of company vehicles from above-ground diesel fuel storage tanks and filling of diesel fuel tanks, is conveyed to a yard drain, catch basin and sump, from where it is pumped to the tank farm. Storm water runoff from the dock area of the service center garage enters the same yard drain and catch basin that the parking lot storm water is conveyed to. Storm water that falls onto an epoxy-lined containment basin where intermittent transfers of non-hazardous waste water from trucks to rail cars take place, and where transfers of oil from rail cars to trucks on the truck pad take place, are collected in catch basins, pumped into

2. PERMIT SUMMARY

tanker trucks and sent off-site to a licensed waste water treatment facility. Portable containment is used beneath the rail cars, and any storm water that collects in these containment pans is also pumped into tanker trucks destined for an off-site treatment facility. Storm water that comes into contact with the ground is not impacted by any pollutants related to the transfer operation.

Hydrostatic testing is performed on tanks and pipes that have been washed and cleaned following repair. Hydrostatic testing consists of filling the tanks with clean water in order to test tank integrity. The permittee has indicated that hydrostatic testing of its largest tank would create a discharge of approximately 2.3 million gallons and hydrostatic testing of its two pipes would create a discharge of approximately 2,600 gallons. Over the past few years, the hydrostatic testing water has been trucked to CHESI's treatment facility in South Portland.

Sanitary waste water is conveyed to the City of South Portland's waste water treatment facility and is regulated through the Department's Industrial Pretreatment Program.

Waste Water Treatment: Storm water collected within the bermed tank farm, along with stormwater pumped up to the tank farm from the parking lot and transfer facility area, is manually discharged through a valve to the oil/water (O/W) separator. Hydrostatic testing water discharges to the same O/W separator that is used to treat stormwater. This permit does not require further treatment of the hydrostatic testing water unless dechlorination is required to protect water quality.

CHESI has indicated that the O/W separator is flow-rated for 260 gallons per minute (gpm) continuous; 530 gpm maximum. The valve through which storm water and hydrostatic testing water must pass in order to reach the O/W separator is locked in position so that the maximum throughput is 260 gpm. During discharge of stormwater from the O/W separator, the regulated outfall pipe is designated as Outfall #001; during discharge of the hydrostatic testing water, the outfall pipe is designated as Administrative Outfall #002 in order for the Department to separately regulate the levels of pollutants and flows from each event.

The treated flows are discharged to the outlet of Lower Rolling Mill Pond and then to the Fore River via a 6-inch pipe that discharges above mean low water depth. See **Attachment A** of this Fact Sheet for a facility layout map.

3. CONDITIONS OF PERMITS

Maine law, 38 M.R.S.A. Section 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

3. CONDITIONS OF PERMITS (cont'd)

Water Classification System. In addition, 38 M.R.S.A., Section 420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, 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.A., Article 4-A §468(1)(D)(1) classifies Rolling Mill Pond Outlet as a Class C waterway. Maine law, 38 M.R.S.A., Article 4-A, §465(4) describes the classification standards for Class C waters.

Maine law, 38 M.R.S.A., Article 4-A §469(F) classifies the Fore River as a Class SC waterway. Maine law, 38 M.R.S.A., Article 4-A, §465-B(3) describes the classification standards for Class SC waters.

5. RECEIVING WATER CONDITIONS

A document entitled, *The State of Maine, Department of Environmental Protection 2008 Integrated Water Quality Monitoring and Assessment Report*, published by the Department lists the Fore River Estuary in South Portland in Category 5-A: "Estuarine and Marine Waters Impaired by Pollutants Other Than Those Listed in [Categories] 5B Through 5-D." Sampling conducted in calendar year 2001 indicates the 1.20 square miles of the Fore River Estuary in South Portland (waterbody ID #804-7) is impaired for the designated use of "marine life use and support." The report indicates the causes of the impairment are municipal point sources, combined sewer overflows, storm water, hazardous waste sites and nonpoint spills of all sizes. The Department has scheduled calendar year 2012 to prepare a total maximum daily load (TMDL) report to address the impairment. In addition, all estuarine and marine waters are listed in Category 5-D, "Estuarine and Marine Waters Impaired by Legacy Pollutants." The Category 5-D waters partially support fishing ("shellfish" consumption) due to elevated levels of PCB's and other persistent, bioaccumulating substances in lobster tomalley.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

Discharges from activities associated with bulk petroleum stations and terminal operations must satisfy best conventional technology (BCT) and best available technology (BAT) requirements and must comply with more stringent water quality standards if BCT and BAT requirements are not adequate.

This permit authorizes the discharge of treated storm water and hydrostatic test waters with numeric effluent limitations which are within applicable water quality standards and requires

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

the continued implementation of a storm water pollution prevention plan for additional protection of the environment. The effluent parameters for each waste stream are discussed in more detail below. The sections are arranged according to the effluent characteristic(s) being regulated:

a. Storm Water Runoff Only – Outfall #001

1. Flow –This permitting action is carrying forward the daily maximum flow limit of 260 gpm.

A review of the discharge flow data as reported on the DMR’s submitted to the Department for the period February 2005 – February 2009 (n=10) indicate the following:

Flow

Value	Limit (gpm)	Range (gpm)	Average (gpm)
Daily Maximum	260	130 – 150	148

2. Total Suspended Solids (TSS) - Total suspended solids have been limited in this permit to minimize the potential carryover of petroleum fractions to the receiving water(s) by adsorption to particulate matter or suspended solids. Both heavy metals and polynuclear aromatic hydrocarbons (PAH’s) readily adsorb to particulate matter.

This permitting action is carrying forward the daily maximum TSS concentration limit of 100 mg/L based on an EPA Region I BPJ determination that the technology guidelines promulgated at 40 CFR Part 423—*Steam Electric Power Generating Point Source Category* for point source discharges of low-volume waste water were appropriate to control the discharge of sediment particles and oils from bulk storage petroleum terminals in the region.

This permitting action is carrying forward the twelve-month rolling averaging period requirement for compliance with the monthly average TSS concentration limit of 50 mg/L based on the Department’s BPJ.

As stated in footnote #3 of Special Condition A, *Effluent Limitations and Monitoring Requirements*, the 12-month rolling averaging period is based on the most recent twelve months with sampling data. Months where no discharge took place are excluded (i.e., do not figure in a zero) in the calculation.

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

a. Storm Water Runoff Only– Outfall #001

An example for calculating the 12-month rolling average is as follows:

Calendar year 2007

Quarter #3

<u>Month</u>	<u>Test Result</u>
July	15 mg/L 53 mg/L
Aug	31 mg/L
Sept	71 mg/L 24 mg/L 37 mg/L

Quarter #4

<u>Month</u>	<u>Test Result</u>
Oct	50 mg/L
Nov	34 mg/L 47 mg/L 39 mg/L
Dec	No Discharge

Calendar year 2008

Quarter #1

<u>Month</u>	<u>Test Result</u>
Jan	25 mg/L 72 mg/L
Feb	No Discharge
Mar	71 mg/L 22 mg/L 26 mg/L

Quarter #2

<u>Month</u>	<u>Test Result</u>
April	50 mg/L
May	34 mg/L 47 mg/L 59 mg/L
June	89 mg/L

$$\text{12-Month rolling average} = \frac{\sum \text{effluent concentrations}}{n \text{ results}} = \frac{896}{20} = 45 \text{ mg/L}$$

A review of the quarterly TSS data as reported on the DMR's submitted to the Department for the period February 2005 – February 2009 indicate the following:

TSS

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum (n=10)	100	17 – 170	40
12-month Rolling Average (n=8)	50	13 – 51	25

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

a. Storm Water Runoff Only– Outfall #001

3. Oil and Grease (O&G) – This permitting action is carrying forward the daily maximum oil and grease concentration limit of 15 mg/L based on Department BPJ as facilities equipped with properly designed, operated and maintained oil/water separator systems are capable of reducing oil content to 15 mg/L or less.

A review of the quarterly O&G data as reported on the DMR's submitted to the Department for the period February 2005 – February 2009 (n=10) indicate the following:

Oil and Grease

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	15	<5 – 19	7

Results reported as “less than” were considered to be present at the minimum detection limit for calculation purposes.

- b. Hydrostatic Testing Water (Administrative Outfall #002) – A review of the DMR's submitted to the Department for the period February 2005 – February 2009 indicate there was no hydrostatic test water discharged during this period.

1. Flow – This permitting action is carrying forward the daily maximum limitation of 2.3 MGD from the previous permitting action.
2. Total Suspended Solids (TSS) – This permitting action is carrying forward the TSS daily maximum limit of 50 mg/L that is based on a Department BPJ of limits that were achievable given the tanks and pipes that are hydrostatically tested have been washed and cleaned in preparation for repair and testing.
3. Oil & Grease – This permitting action is carrying forward a daily maximum oil and grease concentration limit of 15 mg/L that is a Department BPJ of limits that are achievable given the fact that the piping is new and the tanks that are hydrostatically tested have been washed and cleaned in preparation for repair and testing.
4. Total residual chlorine (TRC) – This permitting action is carrying forward a daily maximum TRC limit of 19 ug/L established in the previous permitting action. The limitation is based on EPA's acute criteria maximum concentration (CMC) of 19 ug/L for freshwaters. The limitation does not take into consideration dilution in the receiving water due to the limited flow in the creek during a discharge event as the discharge of hydrostatic test water is not associated with wet weather events. A chronic limit is not specified because the discharge is not continuous.

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

b. Hydrostatic Testing Water (Administrative Outfall #002)

Compliance with the daily maximum TRC limitation is based on EPA's current minimum level (ML) of detection of 50 ug/L (0.05 mg/L).

It is noted the quarterly Discharge Monitoring Reports (DMR's) are coded with the numeric value of 0.05 mg/L such that detectable results reported below the ML will not be considered a violation of the permit.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody to meet standards for Class C (Rolling Mill Pond Outlet) classification. An in-depth review of the water quality and impairment issue for the Fore River (Class SC) estuary cited in Section 5, *Receiving Water Conditions*, of this Fact Sheet is scheduled for calendar year 2012 when a total maximum daily load (TMDL) is scheduled to be performed by the Department.

8. PUBLIC COMMENTS

Public notice of this application was made in the *Portland Press Herald* newspaper on or about January 22, 2009. The Department receives public comment 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 Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

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

Phyllis Rand
Division of Water Quality Management
Bureau of Land and Water Quality
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
email: phyllis.a.rand@maine.gov
Tel: (207) 287-7658

10. RESPONSE TO COMMENTS

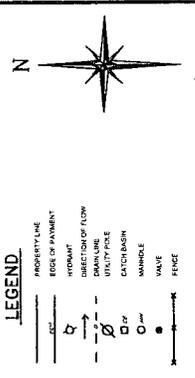
During the period of March 13, 2009 through the issuance date of the permit, the Department solicited comments on the proposed draft permit to be issued for the discharge(s) from the CHESI facility. The Department received one significant comment and several minor comments on the draft permit from CHESI in electronic correspondence to the Department dated April 10, 2009. The significant comment and Department response is as follows.

Comment #1: CHESI submitted an amended Facility Layout Map to indicate the yard drain in the parking lot and to correct the surface flow direction arrows for the unpaved access path that extends from the office/transfer facility.

Response #1: The Department accepted and replaced the Facility Layout Map as Attachment A of the CHESI fact sheet.

The Department did not receive comments from state or federal agencies or interested parties that resulted in any further substantive change(s) in the terms and conditions of the permit.

ATTACHMENT A



Area of CHES that Discharges via Outfall #001

AREA I: HAZARDOUS WASTE TRUCKS TO TRUCK TRANSFER AREA TRUCK BACK
 Operations: Transfer of hazardous waste from trucks to rail cars and transfer of oil from rail cars to trucks on the truck pad.
 Stormwater Management: Stormwater that falls in the epoxy-lined containment basin is collected in catch basins located in the truck transfer area and transferred to the wastewater treatment facility. A roof over the truck pad reduces the amount of stormwater that may collect on the pad. Portable containment is used beneath the rail cars and any stormwater that collects in these areas is also pumped onto trucks destined for an off-site treatment facility. Stormwater that falls on the ground is not impacted by any pollutants related to the transfer operation.

AREA II: TANK FARM
 Operations: Transfer and Storage of Fuel Oils
 Stormwater Management: Stormwater collected within the bermed tank farm, along with stormwater pumped from the tank farm, is pumped to the stormwater treatment facility. Stormwater is normally discharged through a valve to the oil/water separator. The valve is kept closed except when draining of the accumulated stormwater is necessary.

AREA III: SERVICE CENTER GARAGE
 Operations: Maintenance and storage of equipment and storage of supplies.
 Stormwater Management: No rain on or run-off of stormwater occurs inside the building. Run-off from the dock area at the rear of the garage and from the roof is to the yard drain and parking lot catch basin and sump which pumps the stormwater to the tank farm.

AREA IV: TRUCK BACK AND RAIL BACK
 Operations: Transfer of non-hazardous wastewaters from trucks on the truck pad to rail cars and transfer of oil from rail cars to trucks on the truck pad.
 Stormwater Management: Stormwater that falls in the epoxy-lined containment basin is collected in catch basins located in the truck transfer area and transferred to the wastewater treatment facility. A roof over the truck pad reduces the amount of stormwater that may collect on the pad. Portable containment is used beneath the rail cars and any stormwater that collects in these areas is also pumped onto trucks destined for an off-site treatment facility. Stormwater that falls on the ground is not impacted by any pollutants related to the transfer operation.

AREA V: PARKING LOT
 Operations: Parking of employee and company vehicles, fueling of company vehicles from aboveground diesel and storage tank, filling of storage tank (in parking lot) containing fuel storage.
 Stormwater Management: Flow is to the yard drain and catch basin and sump from which stormwater is pumped to the tank farm.

AREA VI: SERVICE CENTER GARAGE
 Operations: Maintenance and storage of equipment and storage of supplies.
 Stormwater Management: No rain on or run-off of stormwater occurs inside the building. Run-off from the dock area at the rear of the garage and from the roof is to the yard drain and parking lot catch basin and sump which pumps the stormwater to the tank farm.

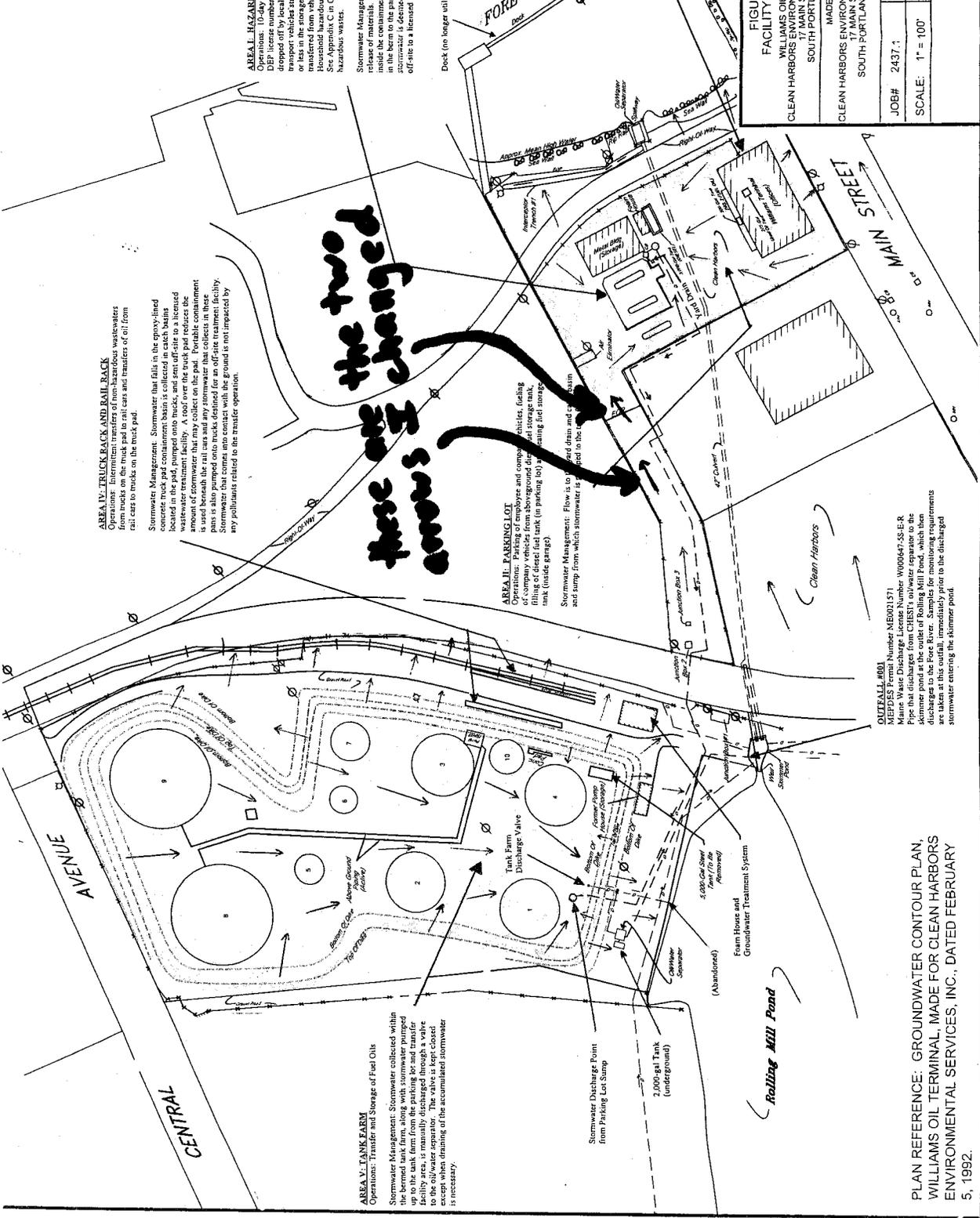


FIGURE 2
FACILITY LAYOUT
 WILLIAMS OIL TERMINAL
 CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.
 17 MAIN STREET
 SOUTH PORTLAND, MAINE

MADE FOR CLEAN HARBORS ENVIRONMENTAL SERVICES, INC. 17 MAIN STREET SOUTH PORTLAND, MAINE 04106	JOB# 2437.1	DATE: 01/29/09	FILE: SITE SKETCH
SCALE: 1" = 100'			

OUTFALL #001
 MEPPDES Permit Number MEW01371
 Maine Waste Discharge License Number W090647-55-E-R
 Pollution Prevention Plan Number 00000000000000000000
 Stormwater pond at the outlet of Rolling Mill Pond, which then discharges to the Fore River. Samples for monitoring requirements are taken at this outfall, immediately prior to the discharged stormwater entering the summer pond.

PLAN REFERENCE: GROUNDWATER CONTOUR PLAN,
 WILLIAMS OIL TERMINAL, MADE FOR CLEAN HARBORS
 ENVIRONMENTAL SERVICES, INC., DATED FEBRUARY
 5, 1992.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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A. GENERAL PROVISIONS

1. General compliance. All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. Other materials. Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- (a) They are not
 - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
 - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

3. Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

4. Duty to provide information. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

5. Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. Reopener clause. The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

11. Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
 - (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
 - (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
 - (e) The permittee shall install flow measuring facilities of a design approved by the Department.
 - (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. Proper operation and maintenance. The permittee shall 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. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Bypasses.

- (a) Definitions.
 - (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c) Notice.
 - (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
 - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The permittee submitted notices as required under paragraph (c) of this section.
 - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (ii) The permitted facility was at the time being properly operated; and
 - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
 - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

D. REPORTING REQUIREMENTS

1. Reporting requirements.

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
 - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
 - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
 - (ii) 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 the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
 - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
 - (i) 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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.

(ii) 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.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);

(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (i) Five hundred micrograms per liter (500 ug/l);
 - (ii) One milligram per liter (1 mg/l) for antimony;
 - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
 - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
- (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
 - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

3. Removed substances. Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. Connection to municipal sewer. (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

Continuous discharge means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
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 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 as part of an appeal only when 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 show 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, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information 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.* An applicant proceeding with a project pending the outcome of an appeal 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 initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final 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. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
