



STATE OF MAINE  
Department of Environmental Protection

JOHN ELIAS BALDACCI  
GOVERNOR

David P. Littell  
COMMISSIONER

April 14, 2009

Mr. Carl Flora  
President and CEO  
Loring Development Authority  
[cflora@loring.org](mailto:cflora@loring.org)

**RE: *Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102581  
Maine Waste Discharge License (WDL) Application #W007926-5S-E-R  
FINAL MEPDES Permit Renewal***

Dear Mr. Flora:

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

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-7659.

Sincerely,

A handwritten signature in blue ink that reads "Bill Hinkel".

Bill Hinkel  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

cc: Jim Marquis, LDA Utilities Supervisor [water@loring.org](mailto:water@loring.org)  
Bill Sheehan, MeDEP  
Sandy Mojica, USEPA

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

DEPARTMENT ORDER

**IN THE MATTER OF**

LORING DEVELOPMENT AUTHORITY ) MAINE POLLUTANT DISCHARGE  
CARIBOU, AROOSTOOK COUNTY ) ELIMINATION SYSTEM PERMIT  
DRINKING WATER TREATMENT PLANT ) AND  
#ME0102581 ) WASTE DISCHARGE LICENSE  
#W007926-5S-E-R **APPROVAL** ) **RENEWAL**

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Maine Department of Environmental Protection (Department) has considered the application of the LORING DEVELOPMENT AUTHORITY (LDA), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

The LDA has applied to the Department for a renewal of combination Waste Discharge License (WDL) #W007926-5S-D-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102581, which was issued on June 14, 2004 and is scheduled to expire on June 14, 2009. The 6/14/04 permit authorized the monthly average and daily maximum discharge of 0.080 million gallons per day (MGD) of filter cleaning backwash waste waters from a quasi-municipal drinking water treatment plant to the Little Madawaska River, Class B, in Caribou, Maine.

## **PERMIT SUMMARY**

### **This permitting action is similar to the 6/14/04 permitting action in that it is:**

1. Carrying forward the monthly average discharge flow limitation of 0.080 MGD;
2. Carrying forward the monthly average and daily maximum concentration and mass limitations for total suspended solids (TSS); and
3. Carrying forward the daily maximum concentration limitation for settleable solids.

### **This permitting action is different from the 6/14/04 permitting action in that it is:**

1. Establishing a daily maximum discharge flow a reporting requirement;
2. Revising the pH range limit;
3. Eliminating the daily maximum concentration and mass limitations for total aluminum based on the results of facility testing; and
4. Revising the minimum monitoring frequency requirements for all monitored parameters.

## CONCLUSIONS

BASED on the findings in the attached 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, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:
  - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
  - (c) 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 water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

**ACTION**

THEREFORE, the Department APPROVES the above noted application of LORING DEVELOPMENT AUTHORITY to discharge a monthly average of up to 0.080 MGD of filter cleaning backwash waste waters from a quasi-municipal drinking water treatment plant to the Little Madawaska River, Class B, in Caribou, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. The term of this permit is five (5) years from the date of signature.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: December 10, 2008  
Date of application acceptance: December 15, 2008

This Order prepared by William F. Hinkel, BUREAU OF LAND & WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge **drinking water filter cleaning (backwash) supernatant from Outfall #001A** to the Little Madawaska River. Such discharges shall be limited and monitored by the permittee as specified below<sup>(1)</sup>:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
	as specified	as specified	as specified	as specified	as specified	as specified
Flow <i>[50050]</i>	0.080 MGD <i>[03]</i>	Report MGD <i>[03]</i>	---	---	2/Month <i>[02/30]</i>	Metered <i>[MT]</i>
TSS <i>[00530]</i>	20 lbs./day <i>[26]</i>	40 lbs./day <i>[26]</i>	30 mg/L <i>[19]</i>	60 mg/L <i>[19]</i>	2/Month <i>[02/30]</i>	Composite <sup>(2)</sup> <i>[CP]</i>
Settleable Solids <i>[00545]</i>	---	---	---	0.3 ml/L <i>[25]</i>	2/Month <i>[02/30]</i>	Composite <sup>(2)</sup> <i>[CP]</i>
pH <i>[00400]</i>	---	---	---	6.0 – 9.0 SU <i>[12]</i>	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs).

**FOOTNOTES: See Page 6 of this permit for the applicable footnotes.**

## SPECIAL CONDITIONS

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

#### FOOTNOTES:

1. **Sampling** – Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 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 analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the actual 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. Compliance with this permit will be evaluated based on whether or not a compound is detected at or above the Department's RL.

2. **Composite Sample** – Samples shall consists of four equally-spaced grab samples collected during a single operating day, or other sampling protocol approved for this facility by the Department.

### B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which 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 discharges 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.

## SPECIAL CONDITIONS

### C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on December 15, 2008; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

### D. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee shall notify the Department of the following:

1. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system.
2. For the purposes of this section, adequate notice shall include information on:
  - a. The quality and quantity of waste water introduced to the waste water collection and treatment system; and
  - b. Any anticipated change in the quality and quantity of the waste water to be discharged from the treatment system.

### E. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13<sup>th</sup>) day of the month or hand-delivered to the Department's Regional Office such that the DMRs are received by the Department on or before the fifteenth (15<sup>th</sup>) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the Department assigned inspector (unless otherwise specified by the Department) at the following address:

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

## **SPECIAL CONDITIONS**

### **F. OPERATION & MAINTENANCE (O&M) PLAN**

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which 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.

**By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades,** the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the water treatment plant to ensure that it is up-to-date. The O&M Plan shall be kept on-site at all times and made available to Department and USEPA personnel upon request.

**Within 90 days of completion of new and or substantial upgrades of the waste water treatment facility,** the permittee shall submit the updated O&M Plan to their Department inspector for review and comment.

### **G. REOPENING OF PERMIT FOR MODIFICATION**

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 any time and with notice to the permittee, modify this permit to:

- (1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded;
- (2) require additional monitoring if results on file are inconclusive; or
- (3) change monitoring requirements or limitations based on new information.

### **H. SEVERABILITY**

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

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

**FACT SHEET**

DATE: **APRIL 14, 2009**

MEPDES PERMIT: **#ME0102581**  
WASTE DISCHARGE LICENSE: **#W007926-5S-E-R**

NAME AND ADDRESS OF APPLICANT:

**LORING DEVELOPMENT AUTHORITY  
154 DEVELOPMENT DRIVE SUITE F  
LIMESTONE, MAINE 04750**

COUNTY: **AROOSTOOK**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**LORING DEVELOPMENT AUTHORITY  
WATER TREATMENT PLANT  
255 MAD DAM ROAD  
CARIBOU, MAINE 04736**

RECEIVING WATER / CLASSIFICATION: **LITTLE MADAWASKA RIVER / CLASS B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**MR. CARL FLORA, PRES./CEO**  
**(207) 328-7005**  
[cflora@loring.org](mailto:cflora@loring.org)

**MR. JIM MARQUIS, UTILITIES SUPERVISOR**  
**(207) 328-4119**  
[water@loring.org](mailto:water@loring.org)

**1. APPLICATION SUMMARY**

- a. Application: The Loring Development Authority (LDA) has applied to the Maine Department of Environmental Protection (Department) for a renewal of combination Waste Discharge License (WDL) #W007926-5S-D-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102581, which was issued on June 14, 2004 and is scheduled to expire on June 14, 2009. The 6/14/04 permit authorized the monthly average and daily maximum discharge of 0.080 million gallons per day (MGD) of filter cleaning backwash waste waters from a quasi-municipal drinking water treatment plant to the Little Madawaska River, Class B, in Caribou, Maine.

## 2. PERMIT SUMMARY

a. Terms and Conditions: **This permitting action is similar to the 6/14/04 permitting action in that it is:**

1. Carrying forward the monthly average discharge flow limitation of 0.080 MGD;
2. Carrying forward the monthly average and daily maximum concentration and mass limitations for total suspended solids (TSS); and
3. Carrying forward the daily maximum concentration limitation for settleable solids.

**This permitting action is different from the 6/14/04 permitting action in that it is:**

1. Establishing a daily maximum discharge flow a reporting requirement;
2. Revising the pH range limit;
3. Eliminating the daily maximum concentration and mass limitations for total aluminum based on the results of facility testing; and
4. Revising the minimum monitoring frequency requirements for all monitored parameters.

b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the LDA's Water Treatment Plant.

March 13, 1986 – The Department issued WDL #W006654-46-A-N to the Loring Air Force Base for the discharge of wastewater from four (4) separate outfall pipes with different effluent characteristics and receiving waters. The WDL permitted the discharge of 2.5 MGD of secondary treated sanitary wastewater via Outfall #001 to the Little Madawaska River, the discharge of an unspecified quantity of filter cleaning (backwash) wastewater via Outfall #002 to the Little Madawaska River, and the discharge of an unspecified quantity of treated storm water from an oil/water separator via Outfall #003 and Outfall #004 to Greenlaw Brook. The 3/13/96 WDL expired on March 13, 1991.

February 5, 1996 – The Department issued WDL #W007926-ZA-C-R to the Air Force Base Conversion Agency (AFBCA) for the daily maximum discharge of 0.08 MGD of filter cleaning backwash waste waters from a drinking water treatment plant to the Little Madawaska River in Caribou, Maine for a five-year term.

May 7, 1998 – The AFBCA and the LDA submitted a joint application to the Department for the transfer of all licenses and permits issued by the Department from the AFBCA to the LDA.

## 2. PERMIT SUMMARY (cont'd)

September 19, 2000 – The U.S. Environmental Protection Agency (USEPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0090174 to the LDA for the daily maximum discharge of 0.08 MGD of filter cleaning backwash waste waters from a drinking water treatment plant to the Little Madawaska River via Outfall #002A for a five-year term. The permit also renewed authorization for the discharge of secondary treated sanitary wastewater to the Little Madawaska River via Outfall #001A and treated storm water from an oil/water separator to Greenlaw Brook via Outfall #003A and Outfall #004A.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the MEPDES program, and MEPDES permit #ME0102581 has been utilized as the primary reference number for the Loring Development Authority's Water Treatment Plant facility.

July 2, 2003 – The LDA withdrew its 5/7/98 application for the transfer of State-issued permits and licenses on the bases that certain discharges had been eliminated subsequent to submission of the application and that the Department had issued permits/licenses to newly formed entities subsequent to the application for permit/license transfer.

June 14, 2004 – The Department issued WDL #W007926-5S-D-R / MEPDES Permit #ME0102581 to the LDA for a five-year term. The 6/14/04 permit superseded previous WDL #W007926-ZA-C-R issued on 2/5/96.

December 10, 2008 – The LDA submitted a timely and complete General Application to the Department for renewal of the 6/14/04 MEPDES permit. The application was accepted for processing on December 15, 2008, and was assigned WDL #W007926-5S-E-R / MEPDES #ME0102581.

- c. Source Description: The LDA operates a drinking water treatment plant on the eastern shore of the Little Madawaska River in Caribou, Maine to supply potable water to a population of approximately 1,400 people living and/or working on the former Loring Air Force base in Limestone. Construction of the facility was completed in 1958. The drinking water treatment facility was designed to treat a monthly average of up to 2.25 million gallons of river water per day, although current potable water production is significantly lower. The LDA obtains raw water from an impoundment created by the Little Madawaska River Dam. A 16-inch diameter intake pipe located approximately 10-15 feet from the eastern shore of the Little Madawaska River serves as the raw water conduit to the treatment facility. The intake pipe is covered by various sized rock that serves as a primary filter for coarse material present in the river.

A map showing the location of the treatment facility and the receiving water is included as Attachment A of this fact sheet.

## 2. PERMIT SUMMARY (cont'd)

Raw water is pumped to two (2) 250,000-gallon subsurface settling/flocculation tanks where an aluminum-based coagulant is added to promote flocculation and settling of solids. The flow is then evenly distributed to four (4) downflow rapid sand filter beds. Following filtration, the flow is conveyed to a 140,000-gallon clearwell. Filtered water is pumped from the clearwell and treated with hypochlorite and hydrofluorosilicic acid.

The sand filter beds must be periodically cleaned through filter backwash procedures to remove the accumulation of filtered material and to ensure proper and efficient function of the filter media.

- e. Wastewater Treatment: The facility generates wastewater from two distinct processes: 1) sand filter cleaning events that include a backwash cycle that is performed once every 24 hours of operation; and 2) settling/flocculation tank drain-down events that performed once every 4-8 weeks, on average.

Currently, the LDA initiates a filter cleaning cycle after each 24-hour period of operation, although the treatment plant operator may initiate a backwash following observations of filter headloss or filter break-through. Each filter cleaning cycle generates a total of approximately 39,000 gallons of wastewater. Two of the four filter units are cleaned once each week, on average, which generates a total of approximately 78,000 gallons of wastewater per week. In addition to the weekly filter cleaning cycles, the facility also generates up to approximately 250,000 gallons of wastewater at a time from the periodic draining of the 250,000-gallon settling/coagulation/flocculation tank utilized during the treatment of the source waters. All wastewater generated from these processes is conveyed to an enclosed structure referred to as the coagulation building, which consists of a 60,000-gallon settling tank and a 400,000-gallon settling/flow equalization tank as described in the following paragraphs.

Filter cleaning cycles are manually initiated by closing a valve on the filter influent line and opening a drain at the bottom of the filter bed. This procedure drains approximately 9,000 gallons of unfiltered or partially-filtered water remaining in the bed to the 60,000-gallon settling tank. After the filter bed has been drained, filtered water is pumped from the clearwell up through the filter bed (backwash) at a rate of 3,000 gallons per minute for a total of 10 minutes, which generates approximately 30,000 gallons of wastewater. Wastewater is pumped from the 60,000-gallon settling tank to one of two (2) settling/treatment lagoons. The lagoons were designed to settle solids and drain supernatant through an outfall to the Little Madawaska River.

Each of the two 250,000-gallon settling/coagulation/flocculation tanks are drained for cleaning and sludge removal once every six to eight weeks during winter months and once every four to six weeks during summer months. The LDA alternates the tank cleaning events such that only one tank is drained for cleaning at a time. Wastewater generated during the tank draining sequence is conveyed to the 400,000-gallon settling/flow equalization tank located within the coagulation building. The wastewater is pumped to one of the two lagoon cells for additional settling prior to discharge.

## 2. PERMIT SUMMARY (cont'd)

The LDA utilizes two sedimentation lagoon cells in parallel such that wastewater is discharged to only one cell at any given time. Each cell measures approximately 260 feet long by 100 feet wide. The lagoons were constructed with a gravel based material. Each lagoon cell was designed such that supernatant decants to an overflow weir and into a collection system comprised of 8-inch diameter PVC pipe material. The effluent collection system was designed to convey treated wastewater to the Little Madawaska River in Caribou for discharge. Outfall #001A terminates in a concrete headwall approximately 50 feet inland from the normal high water line of the river. The outfall structure was designed such that wastewater exits the pipe and flows through a vegetated swale which serves as a conduit to the river. Based on this design, wastewater discharge from Outfall #001A is not considered to achieve complete and rapid mixing with the receiving water.

The LDA maintains an 18-inch diameter emergency overflow pipe, which is connected to the 60,000-gallon settling tank basin located within the coagulation building and a 24-inch diameter emergency overflow pipe, which is connected to the 400,000-gallon settling/flow equalization basin. The pipes are designed to capture wastewater that exceeds the capacity of the two settling basins and convey the waste for discharge, via a vegetated swale, to the Little Madawaska River at a location immediately adjacent to Outfall #001A. The LDA reported that there have been no known discharges via these emergency overflow pipes since the facility was constructed due, in part, to the ability to pump excess water directly to the treatment lagoons. Special Condition C of this permit, *Authorized Discharges*, prohibits the LDA from discharging wastewater from any other point source other than Outfall #001A and requires that the discharge from any other point source be reported to the Department in accordance with Standard Condition B(5), *Bypasses*, of this permit. This prohibition applies to the discharge of wastewater from either of the LDA's two emergency overflow pipes located in the coagulation building.

## 3. CONDITIONS OF PERMIT

*Conditions of licenses*, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

#### 4. RECEIVING WATER QUALITY STANDARDS

*Classification of major river basins*, 38 M.R.S.A. § 467(15)(C)(2)(a) classifies the Little Madawaska River at the point of discharge as a Class B waterway. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(3) describes the standards for Class B waters.

#### 5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, (Report) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the Little Madawaska River at Caribou as, “*Category 4-B: Rivers and Streams Impaired By Pollutants, Pollution Control Requirements Reasonably Expected To Result In Attainment.*” Impairment in this context refers to a fish consumption advisory due to presence of PCPs in fish tissue resulting from the Loring Air Force Base Superfund Site. The Report indicates that the superfund remediation project has been completed and that the receiving water is expected to attain standards. The Department has no information at this time that the discharge from the LDA causes or contributes to the non-attainment status of the river or of the standards for Class B waters.

The 2008 Report also lists Maine’s fresh waters as “*Category 4-A: Rivers and Streams with Impaired Use, TMDL Completed.*” All freshwaters formerly listed in Category 5-C are moved to Category 4-A (TMDL Completed) due to US EPA approval of a Regional Mercury TMDL. Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, “*Impairment caused by atmospheric deposition of mercury; a regional scale TMDL has been approved. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources.*”

Pursuant to 38 M.R.S.A. § 420(1-B)(B), “*a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11.*” Pursuant to 06-096 CMR 519(1)(A)(2), the discharge of filter backwash from this facility is exempt from interim mercury limits, and the Department has no information that this discharge causes or contributes to the mercury impairment.

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- c. Flow: The previous permitting action established, and this permitting action is carrying forward, a monthly average discharge flow limitation of 0.080 MGD, which is considered representative of wastewater flows generated by this facility. This permitting action is establishing a daily maximum discharge flow reporting requirement to assist in compliance evaluations.

A summary of the discharge flow data as reported on the monthly Discharge Monitoring Reports (DMRs) for the period of October 2004 through December 2008 is as follows:

Discharge Flow	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	0.003 MGD	0.07 MGD	0.03 MGD	44

This permitting action is revising the minimum monitoring frequency requirement for discharge flow from “when discharging” to “twice per month” based on Department best professional judgment.

- d. Dilution Factors: Dilution factors associated with the permitted discharge flow of 0.080 MGD were derived in accordance with 06-096 CMR 530(4)(A) and were calculated as follows:

$$\text{Mod. Acute: } \frac{1}{4} Q_{10} = 4.74 \text{ cfs} \quad \Rightarrow \frac{(4.74 \text{ cfs})(0.6464) + 0.080 \text{ MGD}}{0.080 \text{ MGD}} = 39.3:1$$

$$\text{Acute: } 1Q_{10} = 22.5 \text{ cfs} \quad \Rightarrow \frac{(22.5 \text{ cfs})(0.6464) + 0.080 \text{ MGD}}{0.080 \text{ MGD}} = 182.8:1$$

$$\text{Chronic: } 7Q_{10} = 26.5 \text{ cfs} \quad \Rightarrow \frac{(22.9 \text{ cfs})(0.6464) + 0.080 \text{ MGD}}{0.080 \text{ MGD}} = 186.0:1$$

$$\text{Harmonic Mean: } 7Q_{10} = 84.0 \text{ cfs} \quad \Rightarrow \frac{(84.0 \text{ cfs})(0.6464) + 0.080 \text{ MGD}}{0.080 \text{ MGD}} = 679.7:1$$

06-096 CMR 530(4)(B)(1) states,

*Analyses using numerical acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone and to ensure a zone of passage of at least 3/4 of the cross-sectional area of any stream as required by Chapter 581. Where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design flow, up to and including all of it, as long as the required zone of passage is maintained.*

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

The LDA's outfall pipe terminates above the normal high water mark of the Little Madawaska River and is therefore not considered to achieve rapid and complete mixing with the receiving water. Consequently, the Department is utilizing the default stream flow of 1/4 of the 1Q10 in acute evaluations.

- c. Total Suspended Solids (TSS): The previous permitting action established, and this permitting action is carrying forward, monthly average and daily maximum concentration limits of 30 mg/L and 60 mg/L, respectively, based on Department best professional judgment of best practicable treatment for discharges from drinking water treatment facilities in Maine. The previous permitting action established monthly average and daily maximum mass limits of 20 lbs./day and 40 lbs./day, respectively, for TSS, based on the monthly average flow limit of 0.080 MGD and the applicable concentration limits, and are also being carried forward in this permitting action.

A summary of TSS data as reported on the monthly DMRs for the period of June 2004 through December 2008 is as follows:

TSS	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	0.01 lbs./day	5 lbs./day	0.94 lbs./day	44
	0.2 mg/L	8 mg/L	2.1 mg/L	44
Daily Maximum	0.04 lbs./day	32 lbs./day	4.1 lbs./day	44
	0.4 mg/L	43.7 mg/L	6.8 mg/L	44

This permitting action is revising the minimum monitoring frequency requirement for TSS from "twice per week" to "twice per month" based on Department best professional judgment.

- d. Settleable Solids: The previous permitting action established, and this permitting action is carrying forward, a daily maximum concentration limit of 0.3 ml/L for settleable solids, which is considered a best practicable treatment limitation (BPT) for discharges from drinking water treatment facilities in Maine.

A summary of settleable solids data as reported on the monthly DMRs for the period of October 2004 through December 2008 (# DMRs = 44) indicates the daily maximum settleable solids concentration discharge has been <0.1 ml/L 100% of the time.

This permitting action is revising the minimum monitoring frequency requirement for TSS from "twice per week" to "twice per month" based on Department best professional judgment.

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

- e. pH: The previous permitting action established a pH range limit of 6.0 – 8.5 standard units (SU). In this permitting action, the pH range limit is being revised to 6.0 – 9.0 SU, which is considered by the Department as BPT and is consistent with limits established for other POTWs in Maine.

A summary of pH data as reported on the monthly DMRs for the period of October 2004 through December 2008 (# DMRs = 45) indicates the facility has been in compliance with the new pH range limitation 100% of the time during said reporting period.

This permitting action is revising the minimum monitoring frequency requirement for pH from “twice per week” to “twice per month” based on Department best professional judgment.

- f. Total Aluminum: The previous permitting action established daily maximum concentration and mass limitations of 5.0 mg/L and 3.3 lbs./day, respectively, for total aluminum. The concentration limitation was based on the USEPA’s General Permit for drinking water treatment facilities in Maine, which was issued to several Maine facilities on or after January 9, 1995 and contained a daily maximum concentration limit for aluminum of 5.0 mg/L.

The Department has promulgated acute and chronic freshwater ambient water quality criteria of 750 µg/L and 87 µg/L, respectively, for total aluminum. A summary of the effluent total aluminum data as reported on the monthly Discharge Monitoring Reports (DMRs) for the period of October 2004 through December 2008 is as follows:

<b>Total Aluminum</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Arithmetic Mean</b>	<b># DMRs</b>
Daily Maximum Concentration	0.0085 mg/L	0.96 mg/L	0.10 mg/L	44
Daily Maximum Mass	0.001 lbs./day	0.32 lbs./day	0.04 lbs./day	44

The most stringent water quality-based concentration threshold for aluminum may be calculated using the chronic criterion and the following formula:

Concentration Limit Formula =  
[(Dilution Factor)(0.75)(criterion)] + (0.25)(criterion)

Monthly Average Conc. = [(186)(0.75)(87 µg/L)] + (0.25)(87 µg/L)  
= 12,137 + 22  
= 12,159 µg/L ≈ 12 mg/L

The maximum test result of 0.96 mg/L does not demonstrate a reasonable potential to exceed the ambient water quality criteria for aluminum. Further, the Department has not promulgated technology-based guidelines for the discharge of aluminum from drinking water plants in Maine and the USEPA has not promulgated effluent guideline limitations for this category of dischargers. Therefore, this permitting action is eliminating the daily maximum concentration and mass limitations for total aluminum as the permittee has demonstrated effluent levels of aluminum do not pose a threat to water quality.

## **7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY**

Based on information to date, the Department has determined the existing water uses will be maintained and protected provided the permittee complies with the terms and conditions established herein.

## **8. PUBLIC COMMENTS**

Public notice of this application was made in the *Aroostook Republican* newspaper on or about December 3, 2008. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## **9. DEPARTMENT CONTACTS**

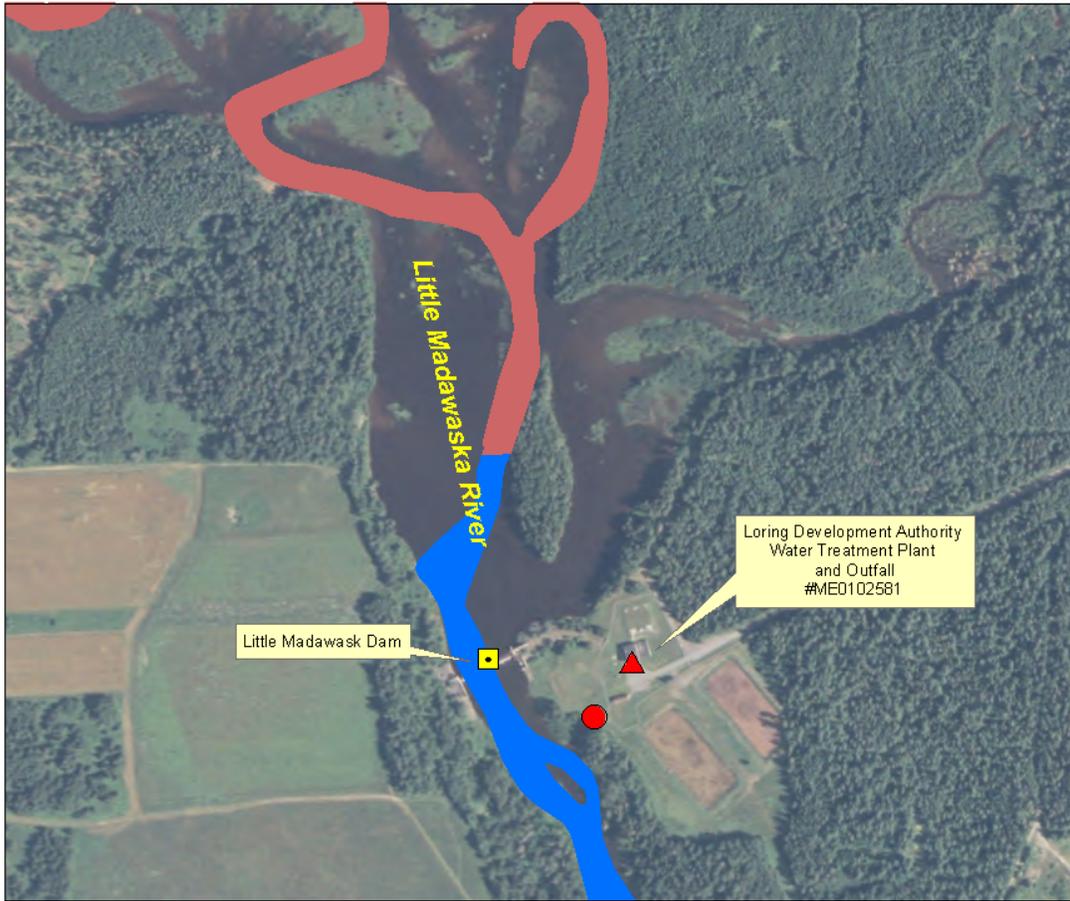
Additional information concerning this permitting action may be obtained from, and written comments sent to:

William F. Hinkel  
Division of Water Quality Management  
Bureau of Land & Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 287-7659 Fax: (207) 287-3435  
e-mail: [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov)

## **10. RESPONSE TO COMMENTS**

During the period of March 12, 2009 through April 13, 2009, the Department solicited comments on the proposed draft MEPDES permit / WDL to be issued to the LDA for the proposed discharge. The Department did not receive significant comments on the draft permit, therefore, a response to comments was not prepared.

# **ATTACHMENT A**



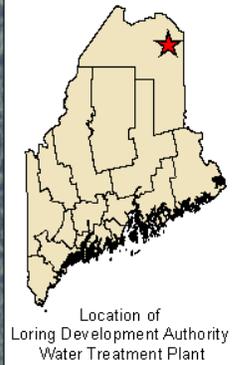
**Legend**

- Dams
- Wastewater\_Outfalls

**River Class**

River Class

- AA
- A
- B
- C



**Loring Development Authority Water Treatment Plant, Caribou, Maine**

Map created by Maine DEP  
March 2009

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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).

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**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

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- 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.

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**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

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**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

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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

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- (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.

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**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

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**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

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**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.

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**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.**

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