



STATE OF MAINE  
Department of Environmental Protection

John Elias Baldacci  
GOVERNOR

David P. Littell  
COMMISSIONER

March 11, 2010

Mr. John Vear  
Planet Waste Water  
457 Front Street  
Richmond, ME. 04357

Mr. Philip Haines  
Vassalboro Sanitary District  
P.O. Box 183  
North Vassalboro, ME 04962

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100692  
Maine Waste Discharge License (WDL) Application #W002597-6A-E-R  
**Final Permit**

Dear Mssrs. Vear and Haines:

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 287-7693.

Sincerely,

A handwritten signature in cursive script, appearing to read 'G. Wood'.

Gregg Wood  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

cc: Beth DeHaas, DEP/CMRO  
Sandy Mojica, USEPA



## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 21, 2010, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 M.R.S.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.

**ACTION**

THEREFORE, the Department APPROVES the above noted application of the VASSALBORO SANITARY DISTRICT (VSD) to discharge a monthly average of up to 0.034 MGD between October 1 and May 31 of each year and a monthly average of up to 0.025 MGD between June 1 and September 31 of each year of secondary treated sanitary wastewater from the VSD's East Vassalboro Facility to Outlet Stream, Class B, in Vassalboro, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. "*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits,*" revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit 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: December 9, 2009  
Date of application acceptance: December 10, 2009

This Order prepared by Michael Demarest, BUREAU OF LAND & WATER QUALITY  
ME0100692 2010 3/10/10

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**JUNE 1<sup>st</sup> - SEPTEMBER 30<sup>th</sup> (summer season)**

- Beginning the effective date of this permit, the permittee is authorized to discharge secondary treated sanitary wastewater from **Outfall #001A** to Outlet Stream in Vassalboro. Such discharges shall be limited and monitored by the permittee as specified below<sup>(1)</sup>:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	0.025 MGD [03]	---	---	---	---	---	Continuous [99/99]	Recorder [RC]
BOD <sub>5</sub> [00310]	6.3 lbs./day [26]	9.4 lbs./day [26]	10.4 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
BOD <sub>5</sub> Percent Removal <sup>(2)</sup> [81010]	---	---	---	85% [23]	---	---	---	---
TSS [00530]	6.3 lbs./day [26]	9.4 lbs./day [26]	10.4 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
TSS Percent Removal <sup>(2)</sup> [81011]	---	---	---	85% [23]	---	---	---	---
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Month [01/30]	Grab [GR]
<i>E. coli</i> Bacteria <sup>(3)</sup> [31633] (May 15 <sup>th</sup> – September 30 <sup>th</sup> )	---	---	---	64/100 ml <sup>(4)</sup> [13]	---	427/100 ml [13]	2/Month [02/30]	Grab [GR]
<u>Total Residual Chlorine</u> <sup>(5)</sup> [00665]	---	---	---	0.1 mg/L [19]	---	0.15 mg/L [19]	5/Week [05/07]	Grab [GR]
pH [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	1/Week [01/07]	Grab [GR]

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.

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

**SPECIAL CONDITIONS**

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

**OCTOBER 1<sup>st</sup> - MAY 31<sup>st</sup> (Non-summer <sup>(6)</sup>)**

2. Beginning the effective date of this permit, the permittee is authorized to discharge **secondary treated sanitary wastewater from Outfall #001A** to Outlet Stream in Vassalboro. 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	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	0.034 MGD [03]	---	---	---	---	---	Continuous [99/99]	Recorder [RC]
BOD <sub>5</sub> [00310]	6.3 lbs./day [26]	9.4 lbs./day [26]	10.4 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
BOD <sub>5</sub> Percent Removal <sup>(2)</sup> [81010]	---	---	---	85% [23]	---	---	---	---
TSS [00530]	6.3 lbs./day [26]	9.4 lbs./day [26]	10.4 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
TSS Percent Removal <sup>(2)</sup> [81011]	---	---	---	85% [23]	---	---	---	---
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Month [01/30]	Grab [GR]
<i>E. coli</i> Bacteria <sup>(3)</sup> [31633] (May 15 <sup>th</sup> – September 30 <sup>th</sup> )	---	---	---	64/100 ml <sup>(4)</sup> [13]	---	427/100 ml [13]	2/Month [02/30]	Grab [GR]
Total Residual Chlorine <sup>(5)</sup> [00665]	---	---	---	0.1 mg/L [19]	---	0.2 mg/L [19]	5/Week [05/07]	Grab [GR]
pH [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	1/Week [01/07]	Grab [GR]

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.

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

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

FOOTNOTES:

1. **Sampling** – The permittee shall conduct all effluent monitoring at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Sampling and analysis must be conducted in accordance with; a) methods approved in 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 analyzed in-house or sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended 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 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. **Percent Removal** – The treatment facility shall maintain a minimum of 85 percent removal of both biochemical oxygen demand and total suspended solids for all flows receiving secondary treatment. The percent removal shall be calculated based on influent and effluent concentration values. The percent removal shall be waived when the monthly average influent concentration is less than 200 mg/L. For such occurrences, the facility shall report “**NODI-9**” for this parameter on the monthly Discharge Monitoring Report (DMR).
3. ***E. coli* bacteria** – *E. coli* bacteria limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to require year-round disinfection to protect the health, safety and welfare of the public.
4. **Bacteria Reporting** – The monthly average *E. coli* bacteria limitation is a geometric mean limitation and sample results shall be reported as such.
5. **Total Residual Chlorine** – Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine-based compounds are used to disinfect the discharge. The permittee shall utilize approved test methods that are capable of bracketing the limitations in this permit. .
6. **BOD and TSS removal** – The non-summer mass limits reflect and are based on the summer effluent limitations. No increase in pollutant loading is permitted beyond that authorized in the summer season.

## **B. NARRATIVE EFFLUENT LIMITATIONS**

1. The effluent must 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 must 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 must not cause visible discoloration or turbidity in the receiving waters that 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. DISINFECTION**

If chlorination is used as the means of disinfection, an approved chlorine contact tank providing the proper detention time consistent with good engineering practice must be utilized followed by a dechlorination system if the imposed total residual chlorine (TRC) limit cannot be achieved by dissipation in the detention tank. The TRC in the effluent shall at no time cause any demonstrable harm to aquatic life in the receiving waters. The dose of chlorine applied must provide a TRC concentration that will effectively reduce *E. coli* bacteria levels to or below those specified in Special Condition A, "*Effluent Limitation and Monitoring Requirements,*" above.

## **D. TREATMENT PLANT OPERATOR**

The person who has the management responsibility over the treatment facility must hold a **Grade II** certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S.A., Sections 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the permittee may engage the services of the contract operator.

## **E. UNAUTHORIZED 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 9, 2009; 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)(*Bypass*) of this permit.

## F. NOTIFICATION REQUIREMENT

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

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and
2. Any substantial change (increase or decrease) in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change shall include information on:
  - (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

## G. LIMITATIONS FOR INDUSTRIAL USERS

Pollutants introduced into the wastewater collection and treatment system by a non-domestic source (user) shall not pass through or interfere with the operation of the treatment system.

## H. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall maintain a current written Wet Weather Flow Management Plan to direct the staff how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall.

**Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility**, the permittee shall submit to the Department for review and approval, a new or revised Wet Weather Management Plan that conforms to Department guidelines for such plans. The revised plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events. **The permittee shall review their plan annually** and record any necessary changes to keep the plan up to date.

## I. OPERATION & MAINTENANCE (O&M) PLAN

This facility shall maintain 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 transport, 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 wastewater treatment facility 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 EPA personnel upon request.

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

## J CHAPTER 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING

This permitting action establishes reduced surveillance level testing for WET and analytical chemistry testing. **On or before December 31<sup>st</sup> of each year** of the effective term of this permit [*PCS Code 95799*], the permittee shall provide the Department with statements describing the following:

- (a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;
- (b) Changes in the operation of the treatment works that may increase the toxicity of the discharge;  
and
- (c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge.

Further, the Department may require that annual testing be re-instituted if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

## K. MERCURY

All mercury sampling (2/Year) required to determine compliance with interim limitations established pursuant to Department rule Chapter 519, shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analysis shall be conducted in accordance with EPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment D, Effluent Mercury Test Report**, of this permit for the Department's form for reporting mercury test results.

## L. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of test results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at 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 and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

## M. 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 a Department Regional Office such that the DMR's 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 following address:

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

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory **not later than close of business on the 15<sup>th</sup> day of the month** following the completed reporting period. **Hard Copy documentation** submitted in support of the eDMR must be **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 it is received by the Department on or before the fifteenth (15<sup>th</sup>) day of the month** following the completed reporting period. **Electronic documentation** in support of the eDMR must be submitted **no later than close of business on the 15<sup>th</sup> day of the month** following the completed reporting period.

## N. 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**

### Effluent Mercury Test Report

Name of Facility: \_\_\_\_\_ Federal Permit # ME \_\_\_\_\_  
Pipe # \_\_\_\_\_

Purpose of this test:  Initial limit determination  
 Compliance monitoring for: year \_\_\_\_\_ calendar quarter \_\_\_\_\_  
 Supplemental or extra test

#### SAMPLE COLLECTION INFORMATION

Sampling Date: _____ mm dd yy	Sampling time: _____ AM/PM
Sampling Location: _____	
Weather Conditions: _____	
Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:  _____	
Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:  _____	
Suspended Solids _____ mg/L	Sample type: _____ Grab (recommended) or _____ Composite

#### ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____	Result: _____ ng/L (PPT)
Date of analysis: _____	<b>Please Enter Effluent Limits for your facility</b>
Effluent Limits: Average = _____ ng/L	Maximum = _____ ng/L
Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.  _____	

#### CERTIFICATION

I certify that to the best of my knowledge the foregoing information is correct and representative of conditions at the time of sample collection. The sample for mercury was collected and analyzed using EPA Methods 1669 (clean sampling) and 1631 (trace level analysis) in accordance with instructions from the DEP.	
By: _____	Date: _____
Title: _____	

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

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

**FACT SHEET**

Date: January 21, 2010

MEPDES PERMIT: **ME0100692**  
WASTE DISCHARGE LICENSE: **W002597-6A-E-R**

NAME AND ADDRESS OF APPLICANT:

**VASSALBORO SANITARY DISTRICT (VSD)  
P.O. Box 183  
North Vassalboro, ME. 04962**

COUNTY: **Kennebec**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Vassalboro Sanitary District  
East Vassalboro Facility  
Vassalboro, ME. 04962**

RECEIVING WATER / CLASSIFICATION: **Outlet Stream/Class B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. John Vear, Contract Operator  
(207) 737-4110  
e-mail: [alienauto@gmail.com](mailto:alienauto@gmail.com)**

**1. APPLICATION SUMMARY**

- a. Application: The applicant has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit ME0100692/Maine Waste Discharge License (WDL) #W002597-6A-D-R (permit hereinafter), which was issued by the Department on January 31, 2005 and is due to expire on January 31, 2010. The 1/31/05 permit authorized the monthly average discharge of up to 25,000 gallons per day (0.025 million gallons per day, [MGD]) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) (**East Vassalboro Facility**) to Outlet Stream, Class B, in Vassalboro, Maine from June 1<sup>st</sup> – September 30<sup>th</sup> (summer) of each year and 0.034 MGD from October 1<sup>st</sup> – May 31<sup>st</sup> (non-summer) of each year. It is noted that the 1/31/05 permitting action did not authorize an increase in the pollutant loading associated with the non-summer increased flow limit.

## 1. APPLICATION SUMMARY (cont'd)

- b. Source Description: The Vassalboro Sanitary District owns and operates the East Vassalboro municipal wastewater treatment facility located on the west side of Main Street (State Route 32) in East Vassalboro for the treatment of sanitary wastewater generated by approximately 40 commercial and residential users in the Town of Vassalboro. There are no significant industrial users contributing flows to the treatment works, the facility is not required to implement a pretreatment program, there are no combined sewer overflow (CSO) points associated with the collection system, and the gravity sewer collection system is 100% separated. The VSD is not authorized to accept septage at the East Vassalboro Facility.

A map showing the location of the VSD's East Vassalboro, North Main Street and Cemetery Street Facilities and the receiving waters is included as Fact Sheet **Attachment A**.

- c. Wastewater Treatment: Sanitary wastewater generated by users in the eastern end of the sewered portion of the Town of Vassalboro is conveyed to the East Vassalboro facility via a combination of gravity and force main sewer collection system and three (3) pump stations referred to as Route 32 Pumping Station, China Village Pumping Station and Main Street Pumping Station (reference sewer system layout included as Fact Sheet **Attachment B**). The VSD provides a primary level of treatment via two (2) series-connected 8,000-gallon septic tanks that are located just prior to a sand filter system. Following primary treatment (settling), the wastewater is conveyed to an open sand filtration system that is used to provide a secondary level of treatment. The filtration system consists of three (3) various sized filter beds, which have, surface areas ranging from approximately 4,000 to 5,000 square feet and are operated in parallel. The filter beds contain 3 feet of filter sand over 8 to 14 inches of  $\frac{3}{4}$ -inch underdrain stone over 4 inches of sand bedding. A portion of the secondary treated (filtered) wastewater exiting the filtration system is chlorinated and recirculated to the filter beds to control growth in the filter media. The remaining effluent from the filter beds is collected in a single effluent pipe and is conveyed to a dosing tank measuring approximately 9 feet wide by 13 feet long for chlorination and dechlorination using a tablet chlorination and dechlorination system. A typical sand filter detail sheet, wastewater process flow schematic and sewer system layout are included as Fact Sheet **Attachment C**.

Final effluent is conveyed for discharge to Outlet Stream via a 6-inch diameter PVC outfall pipe that extends into the receiving waters to a depth of approximately one (1) foot below the surface of the water at mean low water. The outfall pipe is not fitted with diffusers or other mechanisms that would enhance mixing of the effluent with the receiving waters.

## 2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions of the 1/31/05 permitting action with the exception of the phosphorus and ortho-phosphate monitoring requirements, which were discontinued in 2006. The 2005 phosphorus data is not statistically significant to determine whether this facility is causing or contributing to the failure of Outlet Stream to meet phosphorus limits. However, the water quality classification of Outlet Stream has been upgraded from non-attainment to insufficient information to determine attainment since the previous permit (see 5. Water Quality Standards).

## 2. PERMIT SUMMARY (continued)

- b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the VSD's East Vassalboro Facility.

*June 30, 1986* – The USEPA issued NPDES permit #ME0100692 to the VSD for the discharge of secondary treated wastewater from three separate wastewater treatment facilities owned and operated by the VSD to Outlet Stream in Vassalboro. In addition to authorizing the discharge from the East Vassalboro Facility, the 6/30/86 NPDES permit also authorized the discharge of treated wastewater from the North Main Street and Cemetery Street Facilities. The 6/30/86 NPDES permit did not establish discharge flow limitations for the three facilities. The 6/30/86 NPDES permit superseded the previous NPDES permit issued on May 31, 1979.

*March 14, 1990* – The USEPA issued permit modification #ME0100692 to the VSD to revise (reduce) the minimum monitoring frequency requirements for pH and *E. coli* bacteria from those established in the 6/30/86 permitting action.

*February 15, 1995* – The Department issued a letter to the VSD stating that the facility was exempt from the requirements of Department rule Chapter 530.5, *Surface Water Toxics Control Program*, based on the licensed flow limitation, which was less than 50,000 gallons per day.

*February 22, 2000* – The Department issued WDL #W002597-6A-C-R to the VSD for the monthly average discharge of up to 25,000 gallons per day of secondary treated wastewater to Outlet Stream in Vassalboro. The 2/22/2000 WDL was the first license issued by the Department following an administrative decision to assign separate license numbers to the three individual wastewater treatment facilities owned and operated by the VSD. The 2/22/2000 WDL also assigned a new permit compliance system (PCS) tracking system number of MEU100692 to this facility. Prior to the 2/22/2000 licensing action, all three of the VSD's treatment facilities contained the same PCS number (#ME0100692) and the East Vassalboro plant was distinguished from the others by assigning it an outfall identifier of #001A. The discharge from the VSD's Main Street Facility was previously authorized in WDL #W002597-45-B-R issued on March 25, 1986 and WDL #W002597-45-A-N issued on September 23, 1985.

*May 23, 2000* – The Department initiated a modification of the 2/22/2000 WDL by establishing interim average and maximum concentration limits for mercury.

*January 12, 2001* – The Department received authorization from the USEPA to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine. From that date forward, the permit program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permit program. ME0100692 (same as the NPDES permit) is now the primary reference number for the East Vassalboro facility.

*February 2, 2005* – The Department issued MEPDES permit ME0100692/WDL #W002597-6A-E-R for a five-year term.

*December 9, 2009* – The VSD submitted a timely and complete application to the Department for the renewal of ME0100692/WDL #W002597-6A-E-R.

### 3. CONDITIONS OF PERMIT

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 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. §467(4)(I) classifies minor tributaries of the Kennebec River, including, but not limited to Outlet Stream at the point of discharge as a Class B water. Maine law, 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*, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the China Lake Outlet (i.e. Outlet Stream) (Hydrologic Unit Code ME0103000309/Segment ID 328R01) as, “*Category 3: Rivers and Streams with Insufficient Data or Information to Determine if Designated Uses are Attained (One or more Uses may be Impaired)*”. Historical impairment to aquatic life in the Outlet Stream was due to the stream’s eutrophic lake source (China Lake) and agricultural non-point source runoff. Macro-invertebrate sampling of the Outlet Stream by the Department in 2002 and again in 2008 indicates the stream is attaining the Class B aquatic life standards. The Department has no information at this time that indicates the discharge from the VSD causes or contributes to water quality issues in Outlet Stream.

### 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: The previous permitting action contained the following text:  
*“The previous licensing action established a monthly average discharge flow limitation of 0.025 MGD (25,000 gallons per day, GPD) and a minimum monitoring frequency requirement of twice per month. The VSD has indicated that precipitation on the open filter beds contributes to increased flow from the system during the cold season months of October through May and has requested authorization to increase the monthly average flow limit to 0.034 MGD (34,000 GPD). In order to ensure that there is no net increase in phosphorus loading to the receiving water during the warm season when phosphorus has the highest potential to affect water quality, this permitting action is carrying forward the monthly average discharge flow limit of 0.025 MGD during the warm season (June 1 through September 30) of each year and is establishing a monthly average discharge flow limitation of 0.034 MGD during the cold season (October 1 through May 31) of each year. It is noted that a review of the most recent 60 months of effluent data on file for this facility indicates that there have been no exceedances of the effluent flow limit during the warm season months. This permitting action is carrying forward all mass-based effluent limits based on the previously established flow limit of 0.025 MGD to ensure that there is no net increase of pollutants discharged to the receiving water.”*

### 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (continued)

This permitting action is carrying forward the seasonal flow limitations. A review of the monthly DMR data for the period January 2005 – October 2009 indicates the discharge was in compliance with the 0.025 and 0.034 MGD seasonal flow limitations 100% of the estimates (statistical summary follows).

<b>June – September</b>				
<b>Value</b>	<b>Limit (MGD)</b>	<b>N</b>	<b>Range (MGD)</b>	<b>Mean(MGD)</b>
Monthly Average	0.025	30	0.0041 – 0.019	0.01

<b>Flow October – May</b>				
<b>Value</b>	<b>Limit (MGD)</b>	<b>N</b>	<b>Range (MGD)</b>	<b>Mean (MGD)</b>
Monthly Average	0.034	15	0.0013 – 0.032	0.016

PCS flow data was not submitted for December 2005, March 2006, June 2007, and July of 2007.

- b. **Dilution Factors:** The Department established applicable dilution factors for the discharge in accordance with freshwater protocols established in Department Rule Chapter 530, *Surface Water Toxics Control Program*, and October 2005. This permitting action is calculating dilution factors associated with the discharge based on the non-summer season flow limit of 0.034 MGD to ensure that water quality-based limits are protective of receiving water quality on a year-round basis.

With a monthly average flow limit of 0.034 MGD, dilution factors associated with the discharge from the VSD’s East Vassalboro Facility may be calculated as follows:

$$\text{Acute: } 1Q10 = 2.3 \text{ cfs}^* \Rightarrow \frac{(2.3 \text{ cfs})(0.6464) + 0.034 \text{ MGD}}{0.034 \text{ MGD}} = 44.7:1$$

$$\text{Modified Acute: } \frac{1}{4} 1Q10 = 0.5 \text{ cfs} \Rightarrow \frac{(0.57 \text{ cfs})(0.6464) + 0.034 \text{ MGD}}{0.034 \text{ MGD}} = 11.8$$

$$\text{Chronic: } 7Q10 = 2.3 \text{ cfs}^* \Rightarrow \frac{(2.3 \text{ cfs})(0.6464) + 0.034 \text{ MGD}}{0.034 \text{ MGD}} = 44.7:1$$

$$\text{Harmonic Mean} = 6.9 \text{ cfs} \Rightarrow \frac{(6.9 \text{ cfs})(0.6464) + 0.034 \text{ MGD}}{0.034 \text{ MGD}} = 132:1$$

\* The 1Q10 and 7Q10 flow rates are equal as the source has a legal minimum flow requirement of 2.3 cfs.

Department rule Chapter 530 states that,

*“Analysis 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, according to EPA’s Mixing Zone Policy and to ensure a Zone of Passage of at least 3/4 of the cross-sectional area of any stream as required by Department rule. Where it can be demonstrated that a discharge achieves complete and rapid 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.”*

The VSD has not submitted information to the Department as to the mixing characteristics of the effluent with the receiving waters. Therefore, the Department is utilizing the default stream flow of 1/4 1Q10 in acute evaluations pursuant to Chapter 530.

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

- c. **Biochemical Oxygen Demand (BOD<sub>5</sub>) and Total Suspended Solids (TSS):** The previous permitting action established monthly average and weekly average BOD<sub>5</sub> & TSS concentration limits of 30 mg/L and 45 mg/L, respectively, which were based on secondary treatment requirements of the Clean Water Act of 1977 §301(b)(1)(B) as defined in 40 CFR 133.102 and Department rule, Chapter 525(3)(III). The previous licensing action also established daily maximum BOD<sub>5</sub> & TSS concentration limits of 50 mg/L based on a Department best professional judgment (BPJ) of best practicable treatment (BPT) and a minimum monitoring frequency requirement of twice per month. All three technology-based concentration limits are being carried forward in this permitting action. Department rule 06-096 CMR Chapter 523(6)(f) states that all pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass. The previous permitting action established monthly average, weekly average and daily maximum technology-based mass limits of 6.3 lbs./day, 9.4 lbs./day, and 10.4 lbs./day, respectively, which are being carried forward in this permitting action (but rounded off to the nearest pound) and were derived using the previously permitted discharge flow limit of 0.025 MGD as follows:

<b>Mass Limit Calculations</b>		
Monthly Average	(30 mg/L)(8.34 lbs./gallon)(0.025 MGD) =	6.3 lbs./day
Weekly Average	(45 mg/L)(8.34 lbs./gallon)(0.025 MGD) =	9.4 lbs./day
Daily Maximum	(50 mg/L)(8.34 lbs./gallon)(0.025 MGD) =	10.4 lbs./day

This permitting action is also carrying forward the requirement for a minimum of 85% removal of BOD<sub>5</sub> & TSS pursuant to Department rule 06-096 CMR Chapter 525(3)(III)(a)(3) and (b)(3).

A review of the monthly DMR data for the period January 2005–October 2009 indicates the discharge has been in compliance with the BOD & TSS limitations 100% of the samples (statistical summary follows).

<b>BOD Mass</b>				
<b>Value</b>	<b>Limit (lbs/day)</b>	<b>N</b>	<b>Range (lbs/day)</b>	<b>Average (lbs/day)</b>
Monthly Average	6.3	48	0.06 – 1.2	0.35
Daily Maximum	10.4	48	0.08 – 2.17	0.46

<b>BOD Concentration</b>				
<b>Value</b>	<b>Limit (mg/L)</b>	<b>N</b>	<b>Range (mg/L)</b>	<b>Average (mg/L)</b>
Monthly Average	30	48	<2 - 12	3.57
Daily Maximum	50	48	<2 - 18	4.1

<b>TSS mass</b>				
<b>Value</b>	<b>Limit (lbs/day)</b>	<b>N</b>	<b>Range (lbs/day)</b>	<b>Average (lbs/day)</b>
Monthly Average	7	48	0.005 – 0.74	0.21
Daily Maximum	12	48	0.005 – 1.42	0.29

<b>TSS Concentration</b>				
<b>Value</b>	<b>Limit (mg/L)</b>	<b>N</b>	<b>Range (mg/L)</b>	<b>Average (mg/L)</b>
Monthly Average	35		1.4 - 11	4.4
Daily Maximum	50		1.5 - 19	6

This permitting action is carrying forward the minimum monitoring frequency requirement of twice per month (2/Month) based on Department guidance for POTWs permitted to discharge up to 0.10 MGD.

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

- d. Settleable Solids: The previous permitting action established a daily maximum technology-based concentration limit of 0.3 ml/L and a minimum monitoring frequency requirement of once per month for settleable solids. This permitting action is carrying forward the daily maximum concentration limit of 0.3 ml/L as it is considered by the Department to be BPT for secondary treated sanitary wastewater, and the minimum monitoring frequency requirement once per month (1/Month) based on a Department BPJ determination of the level of monitoring necessary to assess compliance with this parameter in consideration of the facility's past demonstrated performance.

It is noted that a summary of settleable solids data as reported on the monthly DMRs for the period of January 2005 through October 2009 (n=48) indicates the daily maximum settleable solids concentration discharge has been in compliance with the 0.3 ml/L limit 100% of the samples.

- e. Escherichia coli bacteria: The previous permitting action established seasonal (between May 15 and September 30 of each year) monthly average and daily maximum concentration limits for *E. coli* bacteria of 64 colonies/100 ml (geometric mean) and 427 colonies/100 ml (instantaneous level), respectively, based on the State of Maine Water Classification Program criteria for Class B waters found at 38 M.R.S.A. §465(3)(B) at the time of permitting along with a minimum monitoring frequency requirement of 2/Month.

During calendar year 2005, Maine's Legislature approved a new daily maximum water quality standards of 236 colonies/100 ml for water bodies designated as Class B and Class C. The Department has determined that end-of-pipe limitations for the instantaneous concentration standard of 427 colonies/100 ml will be achieved through available dilution of the effluent with the receiving waters and need not be revised in MEPDES permits for facilities with adequate dilution (at least 1.1:1 for facilities in Class B waters). The bacteria limits established in this permitting action are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to impose year-round bacteria limits, if necessary, to protect the health, safety and welfare of the public.

A review of the bacterial testing data as reported on the monthly DMRs for the period of January 2005 through October 2009 indicates the facilities discharge was in compliance with the previous permit limits 100% of the tests. A summary of the *E. coli* bacteria test results is as follows:

<b><i>E. coli</i> bacteria</b>					
<b>Value</b>	<b>Limit (col/100 ml)</b>	<b>N</b>	<b>Range (col/100 ml)</b>	<b>Mean (col/100 ml)</b>	<b>Exceedances</b>
Monthly Average	64	21	0 – 4.6	1.1	0
Daily Maximum	427	21	0 - 21	2.2	0

- f. Total Residual Chlorine (TRC): The previous licensing action established a daily maximum water quality-based concentration limit of 0.2 mg/L and a monthly average technology-based concentration limit of 0.1 mg/L for TRC, as well as a minimum monitoring frequency requirement of five times per week. The Department specifies TRC limitations to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or BPT based limit.

End-of-pipe acute and chronic water quality based concentration thresholds may be calculated as follows:

<b>Criterion</b>		<b>Dilution Factors</b>	<b>Calculated Threshold</b>	
Acute	0.019 mg/L	10.5:1	Acute	0.2 mg/L
Chronic	0.011 mg/L	44.7:1	Chronic	0.49 mg/L

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

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that must dechlorinate the effluent in order to consistently achieve compliance with water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. The VSD’s wastewater treatment process includes effluent dechlorination following disinfection. This permitting action is carrying forward the daily maximum water quality-based concentration limit of 0.2 mg/L as it is more stringent than the BPT-based standard of 0.3 mg/L, and is carrying forward the BPT-based limit of 0.1 mg/L as it is more stringent than the calculated chronic threshold of 0.49 mg/L.

This permitting action is carrying forward the minimum monitoring frequency of five times per week (5/Week) based on a Department BPJ determination of the level of monitoring necessary to assess compliance with this parameter in consideration of the facility’s past demonstrated performance. Although bacteria limitations are seasonal and apply between May 15 and September 30 of each year, TRC monitoring must be conducted during any periods that chlorine-based compounds are in use at the facility as TRC is toxic at all times of the year.

A review of the DMR TRC data as reported on the monthly DMRs for the period of 01/01/05 through 10/31/09 indicates the permittee to have been in compliance with the previous TRC permit limits 100% of the tests.

<b>Total residual chlorine</b>				
<b>Value</b>	<b>Limit (mg/L)</b>	<b>N</b>	<b>Range (mg/L)</b>	<b>Mean (mg/L)</b>
Monthly Average	0.10	21	<0.05 - <0.1	<0.1
Daily Maximum	0.20	21	<0.05 – 0.1	<0.1

**Please note: In the future, values above the 0.05 mg/L detectable limit must be expressed as real values such as 0.055 mg/L or 0.95mg/L; not relative values (<0.1 or > 0.1mg/L).**

- g. Total Phosphorus and Total Orthophosphate: The previous permitting action contained the following text: *“The receiving waterbody, Outlet Stream, is currently not attaining the nutrient and aquatic life criteria for Class B waters. A total maximum daily load (TMDL) is scheduled to be performed in calendar year 2008, and the results of the TMDL will be used to determine appropriate total phosphorus and total orthophosphate effluent limitations for the East Vassalboro facility. This permitting action is establishing a minimum monitoring requirement of twice per month (2/Month) for total phosphorus and total orthophosphate during the critical warm season of calendar year 2005 in order to assess the VSD’s contribution to the non-attainment status of the receiving water. The permittee shall report monthly average, weekly average and daily maximum concentration and mass effluent values for total phosphorus and total orthophosphate between June 1, 2005 and September 30, 2005. The Department reserves the right to reopen this permit at any time to revise the monitoring requirements or establish effluent limitations for total phosphorus and total orthophosphate necessary to protect receiving water quality based on the results of the total maximum daily load study scheduled for Outlet Stream.”*

Given that there have not been any algal blooms reported in the Outlet Stream and the macro-invertebrate sampling conducted by the Department in 2002 and 2008 indicates the stream is meeting the aquatic life standards for Class B classification, the Department is not requiring the permittee to conduct any additional sampling for total phosphorus or total ortho-phosphate.

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

- h. pH: The previous permitting action established a technology based BPT pH range limitation of 6.0 –9.0 standard units pursuant to Department rule, 06-096 CMR Chapter 525(3)(III)(c) along with a monitoring frequency of 1/Week, both of which are being carried forward in this permitting action.
- i. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: Maine laws, 38 M.R.S.A., §414-A and §420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* (toxics rule) sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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

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

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

The permittee is exempt from the Chapter 530 requirements for the subject facility because the permitted flow is less than 50,000 gpd, the chronic dilution factor is greater than 50:1 (based on respective permitted and actual mean flows of 0.025 and 0.016 MGD) and the wastewater has domestic-like characteristics. However, should there be a substantial change in the characteristics of the discharge in the future, the Department may reopen this permit pursuant to Special Condition L, *Reopening of Permit for Modifications*, to incorporate the applicable whole effluent toxicity (WET), priority pollutant or analytical testing requirements cited above.

- i. Mercury: Pursuant to *Certain deposits and discharges prohibited*, Maine law, 38 M.R.S.A. § 420, Waste discharge licenses, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a Notice of Interim Limits for the Discharge of Mercury to the permittee on May 23, 2000. This administratively modified MEPDES #ME0100692/WDL # W002597-6A-E-R by establishing interim monthly average and daily maximum effluent concentration limits of 5.2 parts per trillion (ppt) and 7.8 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. Limitations and monitoring frequencies are regulated separately through 38 M.R.S.A. § 413 and 06-096 CMR 519 and Special Condition K of this permit. The interim

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

limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to 38 M.R.S.A., § 413 11(A). A review of the Department's mercury test results database for the previous 60-month period indicates the discharge was in compliance 100% of the samples. The reported mercury levels ranged from 2.2 ppt to 4.6 ppt with an arithmetic mean (n=11) of 3.6 ppt.

## **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 Outlet Stream to meet standards for Class B classification.

## **8. PUBLIC COMMENTS**

Public notice of this application was made in the *Morning Sentinel* newspaper on or about December 7, 2009. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

## **9. DEPARTMENT CONTACTS**

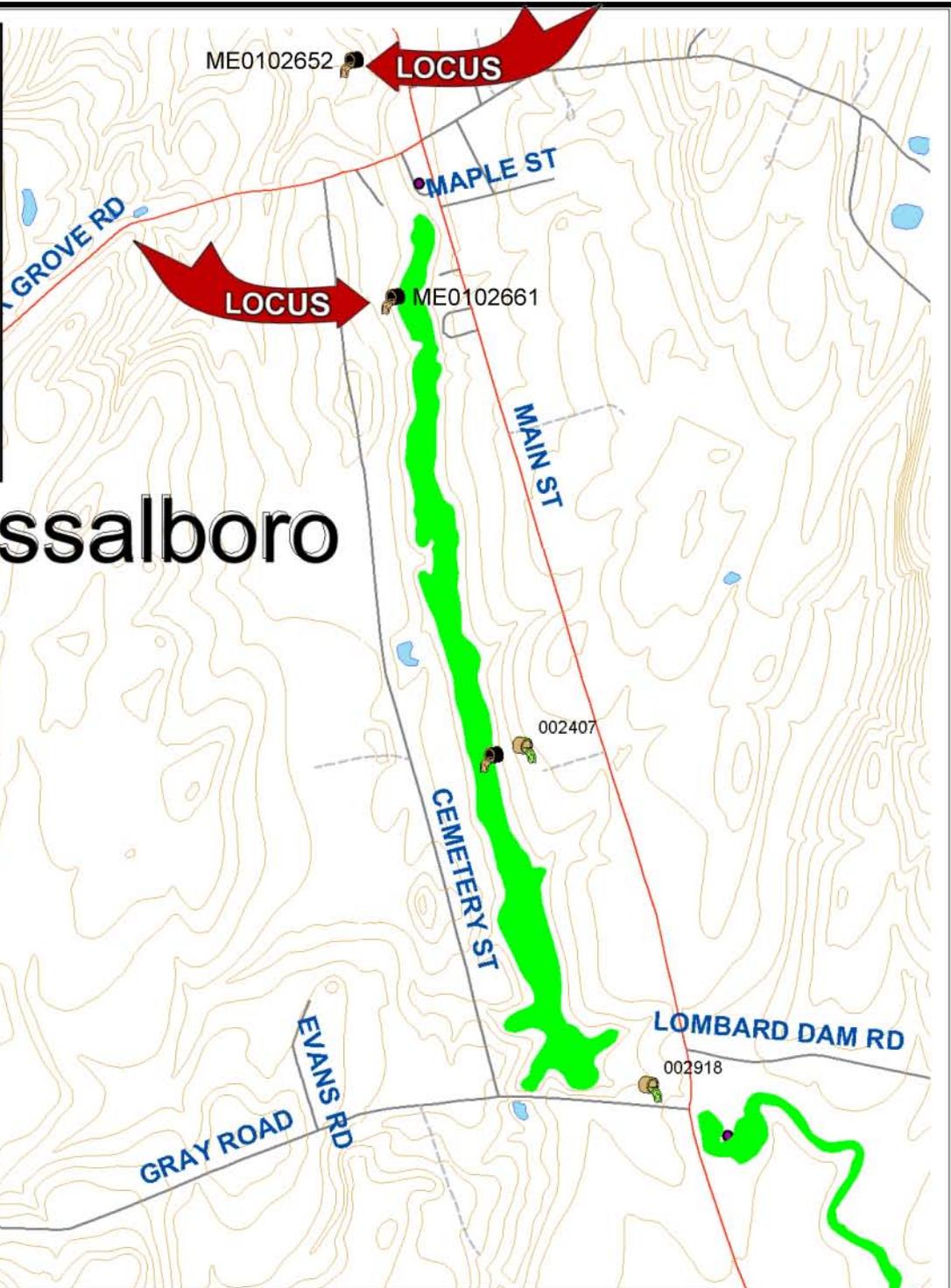
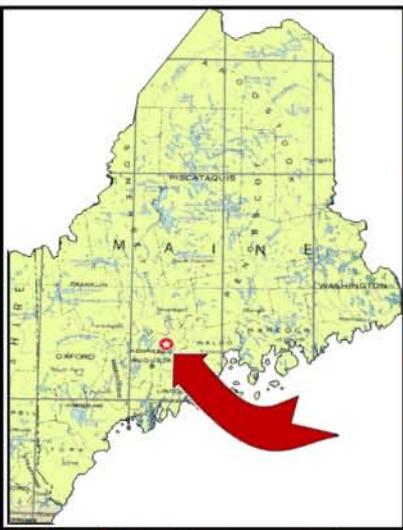
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Michael Demarest  
Division of Water Quality Management  
Bureau of Land & Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 287-7693  
e-mail: [michael.demarest@maine.gov](mailto:michael.demarest@maine.gov)

## **10. RESPONSE TO COMMENTS**

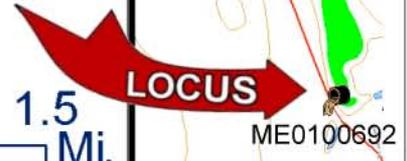
During the period of January 21, 2010, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the Vassalboro Sanitary District's East Vassalboro facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

# **ATTACHMENT A**



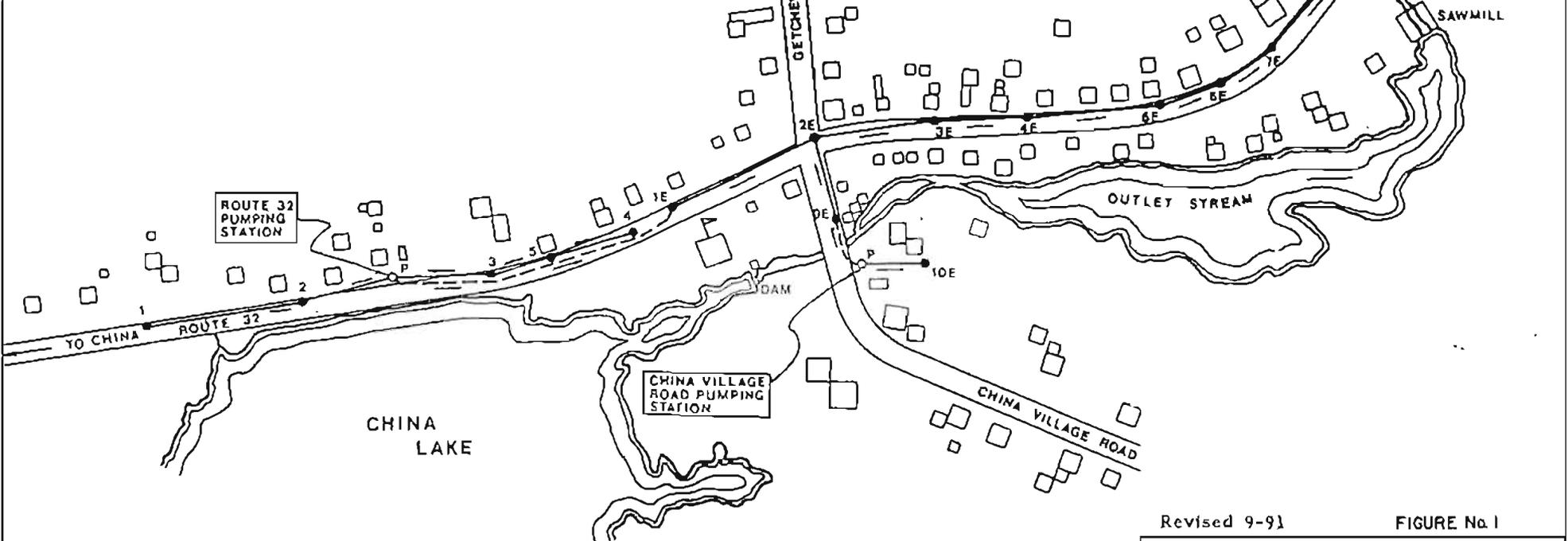
# Vassalboro

VASSALBORO SANITARY DISTRICT  
MEPDES PERMIT ATTACHMENT A  
MEPDES Permits (from north to south)  
#ME0102652 North Main Street  
#ME0102661 Cemetery Street  
#ME0100692 East Vassalboro



# **ATTACHMENT B**

LEGEND:	
●	SEWER MANHOLE
—	GRAVITY SEWER MAIN
- - -	FORCE MAIN
○ <sub>P</sub>	PRECAST PUMPING STATION
□ <sub>P</sub>	CAST-IN-PLACE PUMPING STATION
□ <sub>S</sub>	SEPTIC TANK
□ <sub>SF</sub>	SAND FILTER
□ <sub>C</sub>	CHLORINE CONTACT TANK
—>	SEWER OUTFALL
○ <sub>R</sub>	RECIRCULATING PUMPING STATION



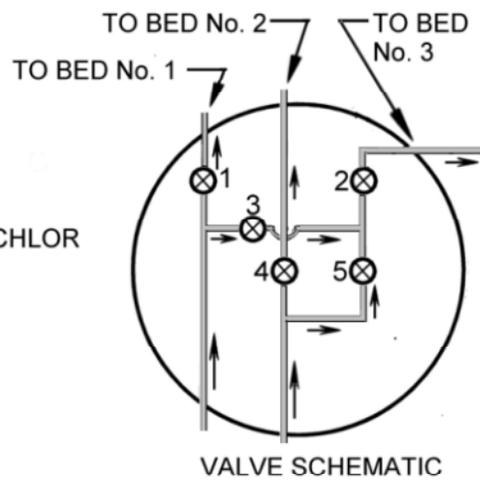
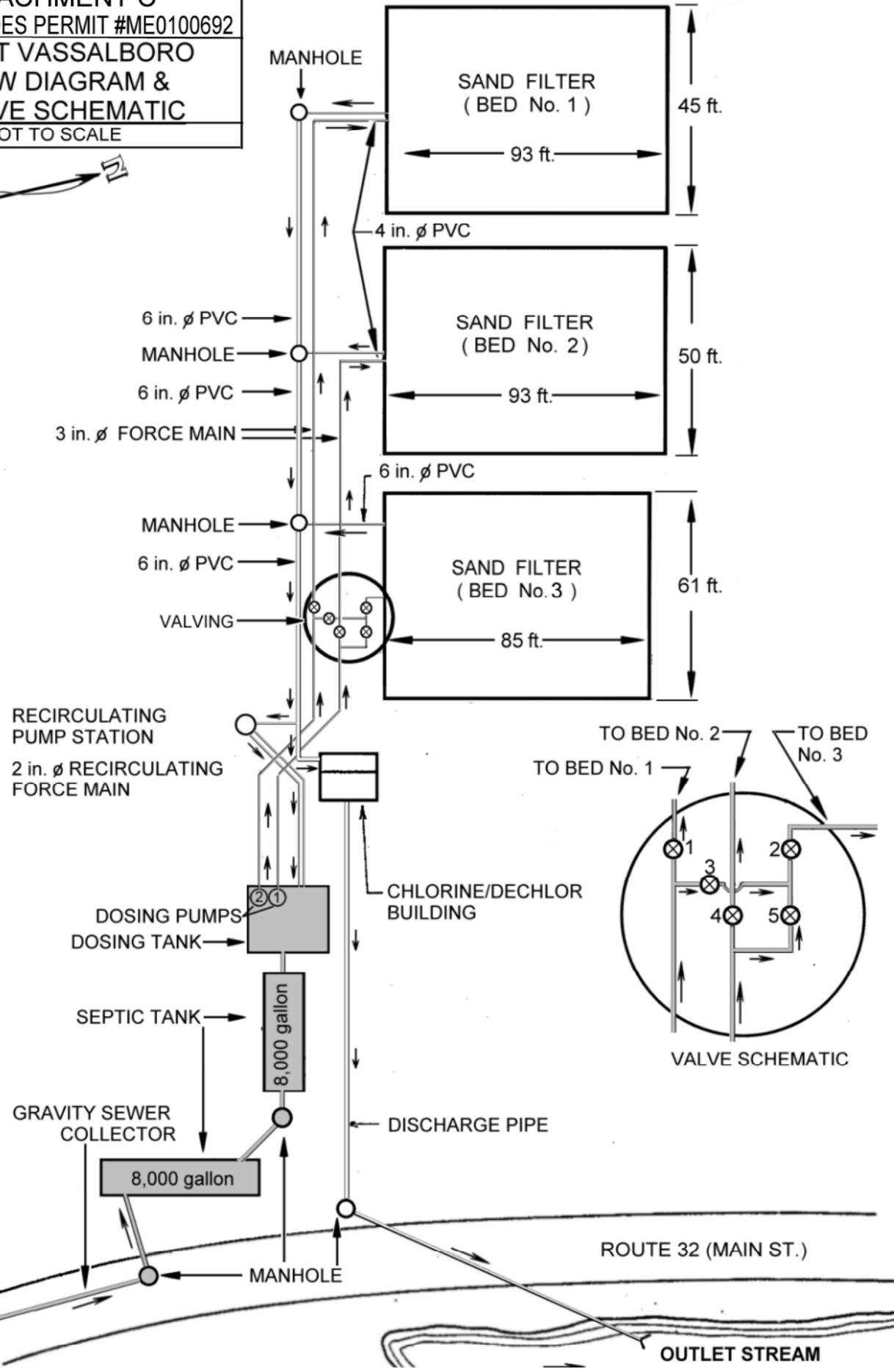
- NOTES:
1. ALL GRAVITY MAINS ARE 8" Ø PVC AND ALL FORCE MAINS ARE 3" Ø POLYETHYLENE, UNLESS OTHERWISE NOTED.
  2. SEE "AS-BUILT" DRAWINGS FOR CONSTRUCTION DETAILS.

Revised 9-91 FIGURE No. 1

VASSALBORO SANITARY DISTRICT VASSALBORO, MAINE	
EAST VASSALBORO SEWER SYSTEM	
A. E. Hodsdon CONSULTING ENGINEERS 10 Common Street, Waterville, Maine 04901	
Drawn By: J.C.R.	Date: MARCH 1981
Scale: (Not to Scale)	Project No.: 65-88B

# **ATTACHMENT C**

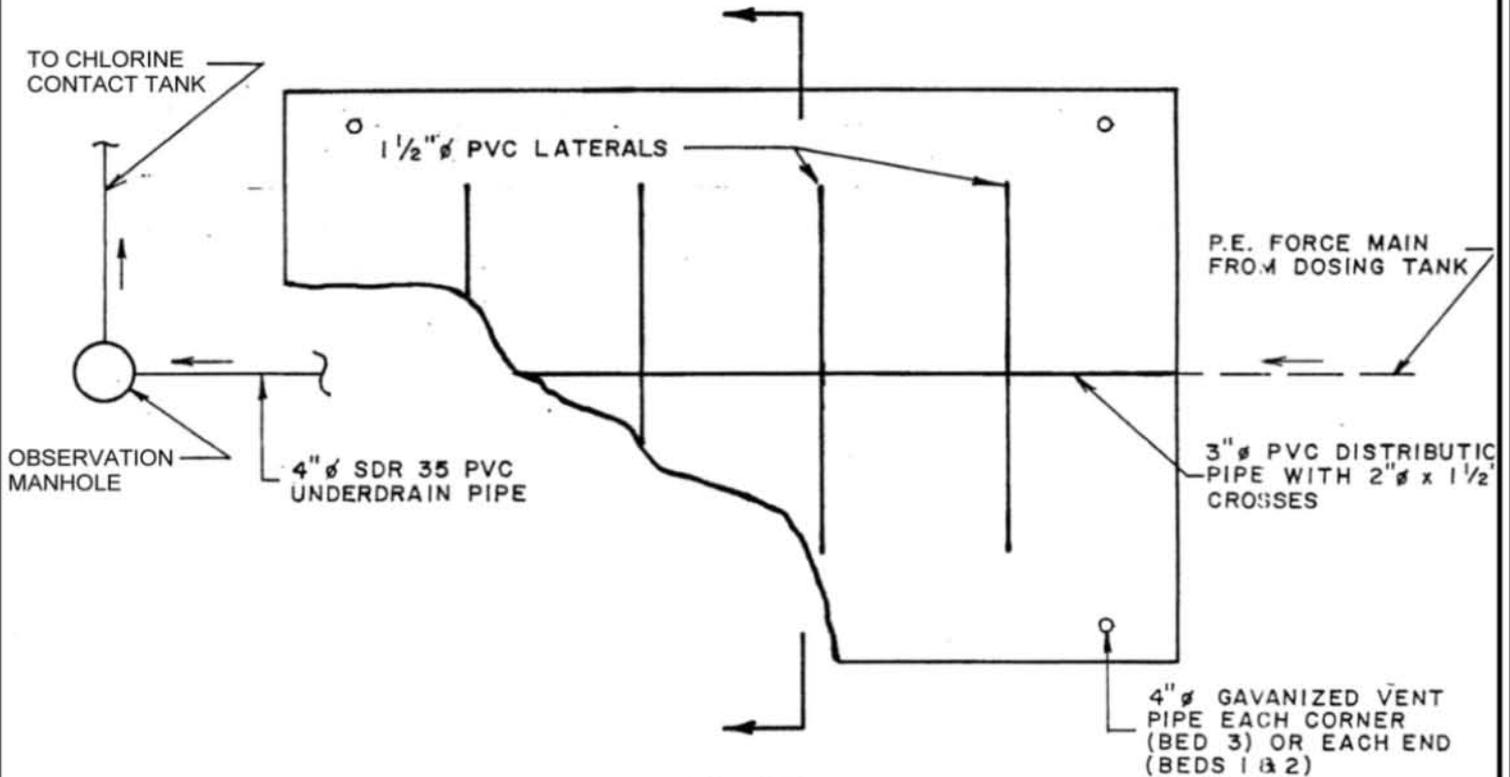
**ATTACHMENT C**  
**MEPDES PERMIT #ME0100692**  
**EAST VASSALBORO**  
**FLOW DIAGRAM &**  
**VALVE SCHEMATIC**  
 NOT TO SCALE



# **ATTACHMENT D**

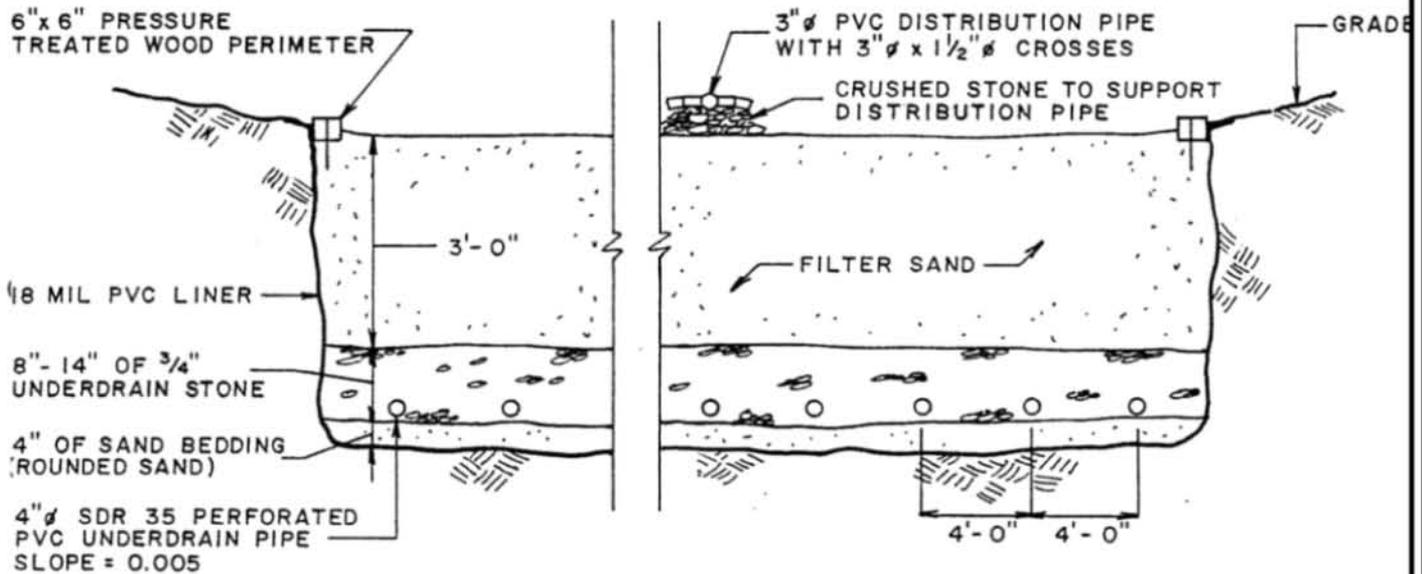
**ATTACHMENT D**  
**MEPDES PERMIT #ME0100692**  
**TYPICAL SAND FILTER DETAILS**

(NOT TO SCALE)



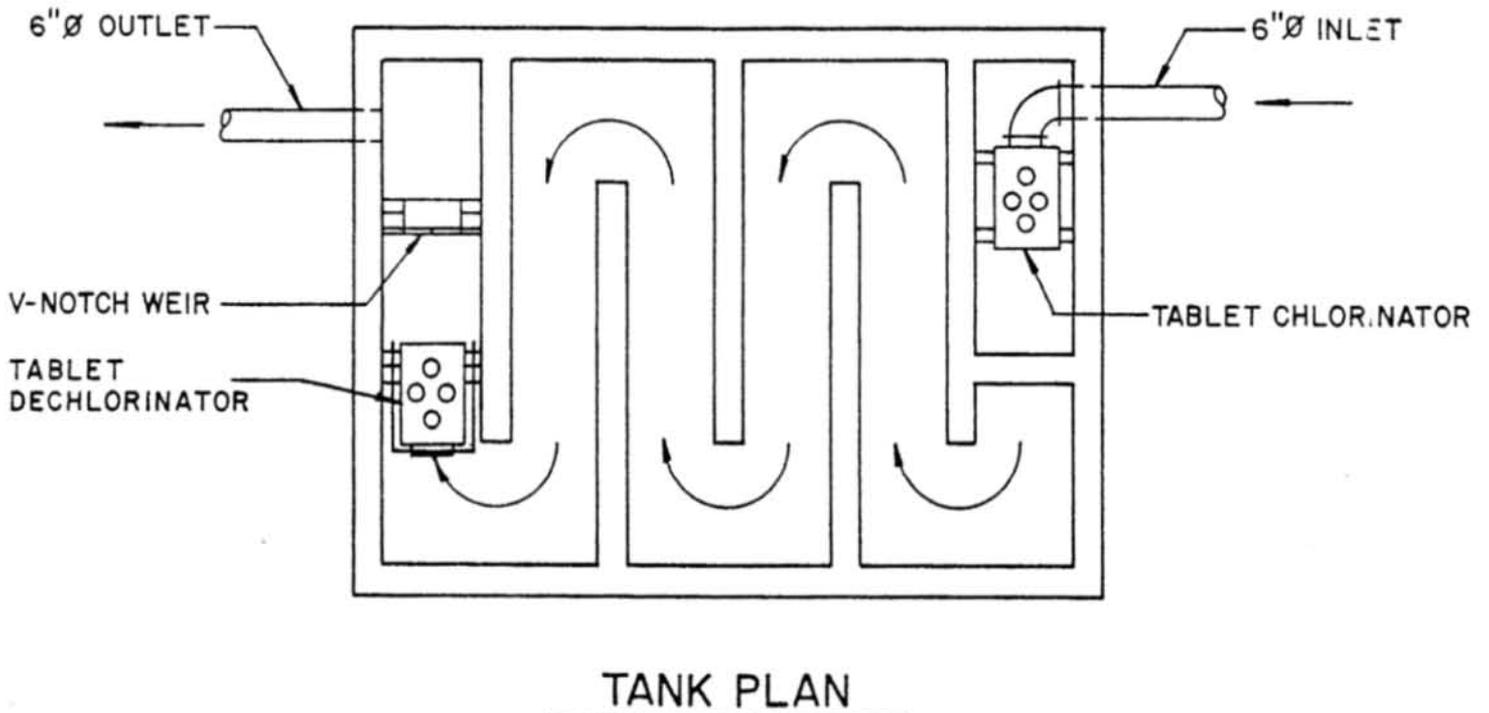
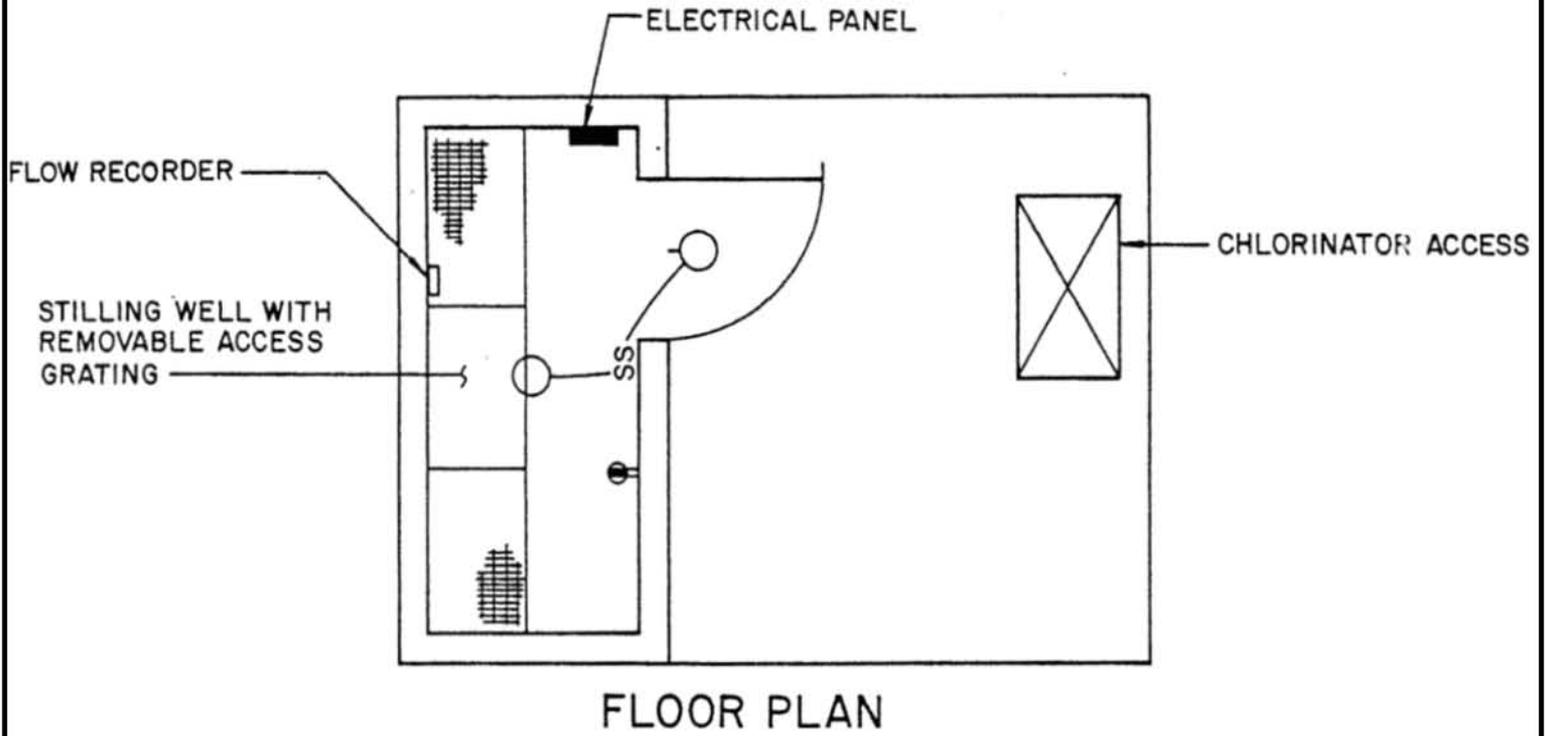
**PLAN**

NOT TO SCALE



**ATTACHMENT D**  
**MEPDES PERMIT #ME0100692**  
**TYPICAL DISINFECTION UNIT DETAIL**

(NOT TO SCALE)



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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.

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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

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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).

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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.

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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.

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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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