



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

November 4, 2011

Mr. Richard Hathaway
Bay Bridge Estates, LLC
2 Primrose Lane
Brunswick, Maine 04011

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036811
Maine Waste Discharge License (WDL) Application #W002101-5B-E-R
Final Permit/WDL

Dear Mr. Hathaway:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL (permit hereinafter) which was approved by the Department of Environmental Protection. Please read the permit 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 dark ink, appearing to read "G. Wood", written over a light blue rectangular stamp.

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

Enc.

cc: William Johnson, DEP/CMRO
Lori Mitchell, DEP/CMRO
Sandy Mojica, USEPA
Ed Friedman, FOMB



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

DEPARTMENT ORDER

IN THE MATTER OF

BAY BRIDGE ESTATES, LLC)	MAINE POLLUTANT DISCHARGE
MOBILE HOME PARK)	ELIMINATION SYSTEM PERMIT
OVERBOARD DISCHARGE)	AND
BRUNSWICK, CUMBERLAND COUNTY)	
ME0036811)	WASTE DISCHARGE LICENSE
W002101-5B-E-R)	RENEWAL
APPROVAL)	

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, *et seq.* and *Conditions of Licenses*, 38 M.R.S.A., Section 414-A *et seq.*, and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of BAY BRIDGE ESTATES, LLC (BBE/permittee hereinafter) with its supportive data, agency review comments, and other related material on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The BBE has submitted a timely and complete application to the Department for renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0036811/Maine Waste Discharge License (WDL) #W002101-5B-D-R (permit hereinafter), which was issued on May 31, 2006, and expired on May 31, 2011. The permit authorized the daily maximum, year-round discharge of up to 60,000 gallons per day (GPD) of secondary treated sanitary wastewater from a mobile home park to the Androscoggin River, Class C, in Brunswick, Maine. Under State law, the discharge is defined as an overboard discharge (OBD) as domestic likely waste water is being collected, treated and discharge by a privately owned entity and not a municipal or quasi-municipal owned facility.

PERMIT SUMMARY

- a. Terms and Conditions: This permitting actions is carrying forward all the terms and conditions of the previous permitting action except that this permitting action
1. Establishes a more stringent monthly average limit for *E. coli* bacteria based on a revision to a Maine law promulgated subsequent to the previous permitting action.
 2. Establishes whole effluent toxicity (WET), analytical chemistry and priority pollutant testing requirements pursuant to Department rule Chapter 530, Surface Water Toxics Control Program based on more stringent dilution factors associated with the discharge.
 3. Establishes more stringent limitations for total residual chlorine based on the new dilution factors.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated October 21, 2011, 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 natural resource, that water quality will be maintained and protected;
 - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing 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 discharges will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S.A., §414-A(1)(D).
5. The overboard discharge system was in continuing existence for the 12 months preceding June 1, 1987.
6. A subsurface wastewater disposal system could not be installed in compliance with the Maine Subsurface Waste Water Disposal Rules at the time the renewal application was accepted by the Department.
7. A publicly owned sewer line is not located on or abutting land owned or controlled by the permittee or is not available for the permittee's use.
8. The discharge is not located within the boundaries of a sanitary district or sewer district.

ACTION

THEREFORE, the Department APPROVES the above noted application of BAY BRIDGE ESTATES, LLC to discharge a daily maximum flow of up to 60,000 GPD of secondary treated sanitary wastewater to the Androscoggin River, Class C, in Brunswick, 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 becomes effective upon the date of signature below and expires at midnight five (5) years thereafter. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the this permit, the terms and conditions of the this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [Maine Administrative Procedure Act, 5 M.R.S.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: January 6, 2011
Date of application acceptance: January 6, 2011

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY
ME0036811 2011 11/2/11

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- The permittee is authorized to discharge **secondary treated sanitary wastewater from Outfall #001** to the Androscoggin River at Brunswick. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾:

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> ⁽⁵⁾
Flow [50050]	Report GPD [07]	---	60,000 GPD [07]	---	---	---	Continuous [99/99]	Measured [MS]
BOD₅ [00310]	15 lbs./day [26]	23 lbs./day [26]	25 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
BOD₅ Percent Removal ⁽²⁾ [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
TSS [00530]	15 lbs./day [26]	23 lbs./day [26]	25 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
TSS Percent Removal ⁽²⁾ [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	2/Week [02/07]	Grab [GR]
E. coli Bacteria ⁽³⁾ [31633]	---	---	---	126/100 ml ⁽³⁾ [13]	---	949/100 ml [13]	2/Month [02/30]	Grab [GR]
Total Residual Chlorine ⁽⁴⁾ [50060] (Upon permit issuance)	---	---	---	---	---	1.0 mg/L [19]	1/Day [01/01]	Grab [GR]
Total Residual Chlorine ⁽⁴⁾ [50060] (Beginning May 15, 2012)	---	---	---	0.1 mg/L [19]	---	<u>0.1 mg/L</u> [19]	1/Day [01/01]	Grab [GR]
pH [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	2/Week [02/07]	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 5 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd) – OUTFALL #001

SURVEILLANCE LEVEL TESTING – Beginning calendar year 2012, the permittee shall conduct surveillance level testing as follows:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity (WET) ⁽⁶⁾						
<u>A-NOEL</u>						
<i>Ceriodaphnia dubia</i> [TDA3B]	---	---	---	Report% [23]	<u>2Year</u> [02YR]	Composite [24]
<i>Salvelinus fontinalis</i> [TDA6F]	---	---	---	Report % [23]	<u>2Year</u> [02YR]	Composite [24]
<u>C-NOEL</u>						
<i>Ceriodaphnia dubia</i> [TBP3B]	---	---	---	Report% [23]	<u>2Year</u> [02YR]	Composite [24]
<i>Salvelinus fontinalis</i> [TBO6F]	---	---	---	Report % [23]	<u>2Year</u> [02YR]	Composite [24]
Analytical Chemistry ^(7,9) [51477]	---	---	---	Report ug/L [28]	<u>1/Quarter</u> [01/90]	Composite/Grab [24/GR]

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd) – OUTFALL #001

SCREENING LEVEL TESTING – Beginning 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level testing as follows:

Effluent Characteristic	Discharge Limitations		Discharge Limitations		Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Whole Effluent Toxicity (WET) ⁽⁶⁾ <u>A-NOEL</u> <i>Ceriodaphnia dubia</i> [TDA3B] <i>Salvelinus fontinalis</i> [TDA6F] <u>C-NOEL</u> <i>Ceriodaphnia dubia</i> [TBP3B] <i>Salvelinus fontinalis</i> [TBQ6F]	 --- --- --- ---	 --- --- --- ---	 --- --- --- ---	 Report% [23] Report % [23] Report% [23] Report % [23]	 <u>1/Quarter</u> [01/90] <u>1/Quarter</u> [01/90] <u>1/Quarter</u> [01/90] <u>1/Quarter</u> [01/90]	 Composite [24] Composite [24] Composite [24] Composite [24]
Analytical Chemistry ^(7,9) [51477]	---	---	---	Report ug/L [28]	<u>1/Quarter</u> [01/90]	Composite/Grab [24/GR]
Priority pollutant ^(8,9) [500008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24/GR]

SPECIAL CONDITIONS

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

Footnotes:

1. **Monitoring** – 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 Human Services. Samples that are 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. See **Attachment A** of this permit for a list of the Department's RLs. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **Percent Removal** – The treatment facility shall maintain a minimum of 85 percent removal of both BOD₅ and TSS 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, and the permittee shall report "**NODI-9**" for this parameter on the monthly Discharge Monitoring Report (DMR).
3. **Bacteria Limits** – *E. coli* bacteria limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The monthly average *E. coli* bacteria limitation is a geometric mean limitation and sample results shall be reported as such. The Department reserves the right to impose year-round bacteria limits to protect the health, safety, and welfare of the public.
4. **Total residual chlorine** - Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee shall utilize approved test methods that are capable of bracketing the limitations in this permit.

SPECIAL CONDITIONS

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

Footnotes:

5. **Samples Types** – Where grab sampling is specified, the applicant may choose to obtain a composite sample instead provided the alternate sampling is noted on the DMR.
6. **Whole effluent toxicity (WET) testing** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic thresholds of 18% and 10% respectively), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematical inverse of the applicable acute and chronic dilution factors of 5.4:1 and 9.7:1, respectively. See Attachment B of this permit for a copy of the Department's WET reporting form.
 - a. **Surveillance level testing** – Beginning upon issuance of this permit and lasting through 12 months prior to expiration of the permit, the permittee shall conduct surveillance level WET testing at a minimum frequency of twice per year (2/Year) on the water flea (*Ceriodaphnia dubia*) and on the brook trout (*Salvelinus fontinalis*).
 - b. **Screening level testing**– Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, whichever is sooner, the permittee shall conduct screening level WET testing at a minimum frequency of once per quarter (1/Quarter) for the water flea (*Ceriodaphnia dubia*) and the brook trout (*Salvelinus fontinalis*).

The permittee is also required to analyze the effluent for the parameters specified in the WET chemistry section, and the parameters specified in the analytical chemistry section of the form in **Attachment A** of this permit each time a WET test is performed.

Once received by the permittee, WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days after receiving the results from the laboratory before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds of 18% and 10%, respectively.

See **Attachment B** of this permit for the Department's WET report form.

SPECIAL CONDITIONS

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

Footnotes:

WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds specified above.

Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following USEPA methods manuals.

- a. Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to Freshwater Organisms, Fourth Edition, October 2002, EPA-821-R-02-013.
- b. Methods for Measuring the Acute Toxicity of Effluent and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, October 2002, EPA-821-R-02-012.

7. **Analytical chemistry** – Refers to a suite of chemicals in **Attachment A** of this permit.
 - a. Surveillance level testing – Beginning upon issuance of this permit and lasting through 12 months prior to expiration of the permit, the permittee shall conduct surveillance level analytical chemistry testing at a minimum frequency of once per quarter (1/Quarter).
 - b. Screening level testing – Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter) for four consecutive calendar quarters.
8. **Priority pollutant testing** – Refers to a suite of chemicals in **Attachment A** of this permit.
 - a. **Surveillance level testing** is not required pursuant to Department rule 06-096 CMR Chapter 530.
 - b. **Screening level testing** – Beginning 12 months prior to expiration of the current permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per year (1/Year).

SPECIAL CONDITIONS

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

Footnotes:

9. **Priority pollutant and analytical chemistry testing** – Testing shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests when applicable. Priority pollutant and analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department.

Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedences of the acute, chronic or human health AWQC as established in Surface Water Quality Criteria for Toxic Pollutants, 06-096 CMR 584 (effective October 9, 2005). For the purposes of DMR reporting, enter a “1” for yes, testing done this monitoring period or “NODI-9” monitoring not required this period.

B. ANNUAL DISCHARGE FEES

Pursuant to Maine law, 38 M.R.S.A. §353-B, the permittee is required to pay an applicable annual fee for discharges authorized by this permit. Failure to pay an annual fee within 30 days of the billing date of a license/permit is sufficient grounds for revocation of the license, permit or privilege under Maine law, 38 M.R.S.A. §341-D, subsection 3.

C. NARRATIVE EFFLUENT LIMITATIONS

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

SPECIAL CONDITIONS

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. PROHIBITION OF NON-DOMESTIC USERS

The wastewater collection and treatment system may not be used to collect, treat or discharge wastewater other than from domestic users.

F. NOTIFICATION REQUIREMENT

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

1. Any substantial change or proposed change 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. 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 January 6, 2011, 2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of waste water 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.

Discharges of a volume or quantity of wastewater that were not licensed as of June 1, 1987, are prohibited by this permit. Maine law, 38 M.R.S.A. §464(4)(6). Increases in the volume or quantity of wastewater discharged are not authorized by this permit.

SPECIAL CONDITIONS

H. SITE EVALUATION FOR TRANSFERRED AND RENEWED PERMITS

The Department may not grant approval for a **permit transfer** if a site evaluation concludes that a non-discharging wastewater disposal system designed in compliance with the Maine Subsurface Waste Water Disposal Rules administered by the Maine Department of Health and Human Services, Division of Environmental Health can be installed as a replacement system for the overboard discharge.

The Department may not grant approval for a **permit renewal** if the site evaluation concludes that a non-discharging wastewater disposal system can be installed as a replacement system for the overboard discharge and the Department has offered the permittee funding for the removal of the discharge.

I. OPERATION & MAINTENANCE (O&M) PLAN

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the 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 waste water treatment facility (excepting the current yet to be completed substantial upgrade), the permittee shall submit the updated O&M Plan to their Department inspector for review and comment.

SPECIAL CONDITIONS

J. 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 (13th) day of the month or hand-delivered to the Department's Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

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

K. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests 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 any time and with notice to the permittee, modify this permit to: (1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional effluent or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

L. SEVERABILITY

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

ATTACHMENT A

Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form
This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

Facility Name _____ MEPDES # _____ Pipe # _____ Facility Representative Signature _____
To the best of my knowledge this information is true, accurate and complete.

Licensed Flow (MGD)
Acute dilution factor
Chronic dilution factor
Human health dilution factor
Criteria type: M(marine) or F(fresh)

Flow for Day (MGD)⁽¹⁾ _____ Flow Avg. for Month (MGD)⁽²⁾ _____
Date Sample Collected _____ Date Sample Analyzed _____

Laboratory Address _____ Telephone _____
Lab Contact _____ Lab ID # _____

FRESH WATER VERSION

ERROR WARNING ! Essential facility information is missing. Please check required entries in bold above.

Please see the footnotes on the last page.

WHOLE EFFLUENT TOXICITY		Effluent Limits, %		Receiving Water or Ambient	Effluent Concentration (ug/L or as noted)	Reporting Limit Check	Possible Exceedance ⁽⁷⁾	
		Acute	Chronic				Acute	Chronic
	Trout - Acute							
	Trout - Chronic							
	Water Flea - Acute							
	Water Flea - Chronic							
WET CHEMISTRY								
	pH (S.U.) ⁽⁹⁾			(8)				
	Total Organic Carbon (mg/L)			(8)				
	Total Solids (mg/L)							
	Total Suspended Solids (mg/L)							
	Alkalinity (mg/L)			(8)				
	Specific Conductance (umhos)							
	Total Hardness (mg/L)			(8)				
	Total Magnesium (mg/L)			(8)				
	Total Calcium (mg/L)			(8)				
ANALYTICAL CHEMISTRY⁽³⁾								
Also do these tests on the effluent with WET. Testing on the receiving water is optional		Effluent Limits, ug/L				Reporting Limit Check	Possible Exceedance ⁽⁷⁾	
		Reporting Limit	Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾		Acute	Chronic
	TOTAL RESIDUAL CHLORINE (mg/L) ⁽⁹⁾	0.05						
	AMMONIA	NA			NA			
M	ALUMINUM	NA			(8)			
M	ARSENIC	5			(8)			
M	CADMIUM	1			(8)			
M	CHROMIUM	10			(8)			
M	COPPER	3			(8)			
M	CYANIDE	5			(8)			
M	LEAD	3			(8)			
M	NICKEL	5			(8)			
M	SILVER	1			(8)			
M	ZINC	5			(8)			

Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form
This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

PRIORITY POLLUTANTS ⁽⁴⁾		Reporting Limit				Effluent Limits		Possible Exceedence ⁽⁷⁾			
				Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾		Reporting Limit Check	Acute	Chronic	Health
M	ANTIMONY	5									
M	BERYLLIUM	2									
M	MERCURY (5)	0.2									
M	SELENIUM	5									
M	THALLIUM	4									
A	2,4,6-TRICHLOROPHENOL	3									
A	2,4-DICHLOROPHENOL	5									
A	2,4-DIMETHYLPHENOL	5									
A	2,4-DINITROPHENOL	45									
A	2-CHLOROPHENOL	5									
A	2-NITROPHENOL	5									
A	4,6-DINITRO-O-CRESOL (2-Methyl-4,6-dinitrophenol)	25									
A	4-NITROPHENOL	20									
A	P-CHLORO-M-CRESOL (3-methyl-4-chlorophenol)+B80	5									
A	PENTACHLOROPHENOL	20									
A	PHENOL	5									
BN	1,2,4-TRICHLOROBENZENE	5									
BN	1,2-(O)DICHLOROBENZENE	5									
BN	1,2-DIPHENYLHYDRAZINE	10									
BN	1,3-(M)DICHLOROBENZENE	5									
BN	1,4-(P)DICHLOROBENZENE	5									
BN	2,4-DINITROTOLUENE	6									
BN	2,6-DINITROTOLUENE	5									
BN	2-CHLORONAPHTHALENE	5									
BN	3,3'-DICHLOROBENZIDINE	16.5									
BN	3,4-BENZO(B)FLUORANTHENE	5									
BN	4-BROMOPHENYLPHENYL ETHER	2									
BN	4-CHLOROPHENYL PHENYL ETHER	5									
BN	ACENAPHTHENE	5									
BN	ACENAPHTHYLENE	5									
BN	ANTHRACENE	5									
BN	BENZIDINE	45									
BN	BENZO(A)ANTHRACENE	8									
BN	BENZO(A)PYRENE	3									
BN	BENZO(G,H,I)PERYLENE	5									
BN	BENZO(K)FLUORANTHENE	3									
BN	BIS(2-CHLOROETHOXY)METHANE	5									
BN	BIS(2-CHLOROETHYL)ETHER	6									
BN	BIS(2-CHLOROISOPROPYL)ETHER	6									
BN	BIS(2-ETHYLHEXYL)PHTHALATE	3									
BN	BUTYLBENZYL PHTHALATE	5									
BN	CHRYSENE	3									
BN	DI-N-BUTYL PHTHALATE	5									
BN	DI-N-OCTYL PHTHALATE	5									
BN	DIBENZO(A,H)ANTHRACENE	5									
BN	DIETHYL PHTHALATE	5									
BN	DIMETHYL PHTHALATE	5									

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

[illegible]

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

[illegible]

Notes:

- (1) Flow average for day pertains to WET/PP composite sample day.
- (2) Flow average for month is for month in which WET/PP sample was taken.
- (3) Analytical chemistry parameters must be done as part of the WET test chemistry.
- (4) Priority Pollutants should be reported in micrograms per liter (ug/L).
- (5) Mercury is often reported in nanograms per liter (ng/L) by the contract laboratory, so be sure to convert to micrograms per liter on this spreadsheet.
- (6) Effluent Limits are calculated based on dilution factor, background allocation (10%) and water quality reserves (15% - to allow for new or changed discharges or non-point sources).
- (7) Possible Exceedence determinations are done for a single sample only on a mass basis using the actual pounds discharged. This analysis does not consider watershed wide allocations for fresh water discharges.
- (8) These tests are optional for the receiving water. However, where possible samples of the receiving water should be preserved and saved for the duration of the WET test. In the event of questions about the receiving water's possible effect on the WET results, chemistry tests should then be conducted.
- (9) pH and Total Residual Chlorine must be conducted at the time of sample collection. Tests for Total Residual Chlorine need be conducted only when an effluent has been chlorinated or residual chlorine is believed to be present for any other reason.

Comments:

ATTACHMENT B

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
FRESH WATERS**

Facility Name _____ MEPDES Permit # _____

Facility Representative _____ Signature _____

By signing this form, I attest that to the best of my knowledge that the information provided is true, accurate, and complete.

Facility Telephone # _____ Date Collected _____ Date Tested _____
mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results	% effluent		Effluent Limitations
	water flea	trout	
A-NOEL			A-NOEL
C-NOEL			C-NOEL

Data summary	water flea			trout		
	% survival		no. young	% survival		final weight (mg)
QC standard	A>90	C>80	>15/female	A>90	C>80	> 2% increase
lab control						
receiving water control						
conc. 1 (%)						
conc. 2 (%)						
conc. 3 (%)						
conc. 4 (%)						
conc. 5 (%)						
conc. 6 (%)						
stat test used						

place * next to values statistically different from controls

for trout show final wt and % incr for both controls

Reference toxicant	water flea		trout	
	A-NOEL	C-NOEL	A-NOEL	C-NOEL
toxicant / date				
limits (mg/L)				
results (mg/L)				

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

Report WET chemistry on DEP Form "ToxSheet (Fresh Water Version), March 2007."

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

FACT SHEET

Date: **January 26, 2011**
Revised: **August 3, 2011**
Revised: **October 21, 2011**

MEPDES PERMIT: **ME0036811**
WASTE DISCHARGE LICENSE: **W002101-5B-E-R**

NAME AND ADDRESS OF APPLICANT:

**BAY BRIDGE ESTATES, LLC
2 Primrose Lane
Brunswick, Maine 04101**

COUNTY: **Cumberland**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**BAY BRIDGE ESTATES MOBILE HOME PARK
Bay Bridge Road
Brunswick, Maine 04011**

RECEIVING WATER / CLASSIFICATION: **Androscoggin River/Class C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Richard Hathaway
Manager (207) 442-7224
e-mail:r-hathaway@comcast.net**

1. APPLICATION SUMMARY

- a. Application: Bay Bridge Estates, LLC (BBE hereinafter) has submitted a timely and complete application to the Department for renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0036811/Maine Waste Discharge License (WDL) #W002101-5B-D-R (permit hereinafter), which was issued by the Department on May 31, 2006, and expired on May 31, 2011. The permit authorized the daily maximum, year-round discharge of up to 60,000 gallons per day (GPD) of secondary treated sanitary wastewater from a mobile home park to the Androscoggin River, Class C, in Brunswick, Maine.

1. APPLICATION SUMMARY (cont'd)

Under State law, the discharge is defined as an overboard discharge (OBD) as domestic likely waste water is being collected, treated and discharge by a privately owned entity and not a municipal or quasi-municipal owned facility. See **Attachment A** of this Fact Sheet for a location map.

- b. Source Description: Bay Bridge Estates, LLC owns and operates the Bay Bridge Mobile Home Park, a private residential establishment, on Bay Bridge Road in Brunswick, Maine. The mobile home park consists of approximately 493 mobile homes on approximately 135 acres of land. Sanitary wastewater generated by 201 of the 493 mobile home units is conveyed to a subsurface wastewater disposal system. Sanitary wastewater generated by the remaining 292 homes is the source of wastewater that is the subject of this permit.
- c. Wastewater Treatment: BBE provides a secondary level of wastewater treatment via three sand filter bed treatment systems. Raw wastewater is conveyed from the eastern portion of the park to one 20,000-gallon capacity septic tank for primary treatment. Supernatant from this tank is pumped to sand filter bed #1. Raw wastewater is conveyed from the western portion of the park to four 13,000-gallon capacity septic tanks for primary treatment. Supernatant from these tanks are transferred to a valving station for redistribution to filter beds #2 and #3 via three pump stations. Sand filter bed #1 is approximately 35 years old and measures 100-feet by 170-feet (17,000 square feet). Bed #2 is approximately 25 years old and measures 100-feet by 200-feet (20,000 square feet). Bed #3 is approximately 15 years old and measures 111-feet by 240-feet (26,640 square feet) but was rehabilitated in 2004. Secondary treated effluent from the three filter beds flows via a 6-inch diameter polyvinyl chloride (PVC) effluent pipe to a 3,000-gallon capacity chlorine contact chamber for seasonal disinfection using sodium hypochlorite. Final effluent is conveyed to the Androscoggin River via a 6-inch diameter outfall pipe designated as Outfall #001 in this permitting action. The outfall pipe extends approximately 180 feet into the receiving waters to a depth of approximately two feet at mean low water conditions. A schematic of the wastewater treatment process is included as Fact Sheet **Attachment B**.

2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting actions is carrying forward all the terms and conditions of the previous permitting action except that this permitting action
 - 1. Establishes a more stringent monthly average limit for *E. coli* bacteria based on a revision to a Maine law promulgated subsequent to the previous permitting action.
 - 2. Establishes whole effluent toxicity (WET), analytical chemistry and priority pollutant testing requirements pursuant to Department rule Chapter 530, Surface Water Toxics Control Program based on more stringent dilution factors associated with the discharge.

2. PERMIT SUMMARY (cont'd)

3. Establishes more stringent limitations for total residual chlorine based on the new dilution factors.

- b. Regulatory History: This section provides a summary of significant licensing/permitting actions that have been completed for the Bay Bridge Estate Mobile Home Park.

January 1, 1987 – Bay Bridge Associates submitted an application to the U.S. Environmental Protection Agency (USEPA) for a new National Pollutant Discharge Elimination System (NPDES) permit. The USEPA never acted on the pending application and a NPDES permit was never issued for this facility.

December 9, 1994 – The Department issued WDL #W002101-67-C-R to Bay Bridge Associates for a ten-year term. The 12/9/94 WDL superseded WDL #W002101-41-B-R issued on May 26, 1989, WDL Transfer #W002101-41-A-T issued on December 11, 1986, and WDL #W2101 issued on April 5, 1978 (earliest order on file with the Department).

January 12, 2001 - The State of Maine received authorization from the USEPA to administer the NPDES program in Maine. From that point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permit program.

May 31, 2006 – The Department issued combination MEPDES permit #ME0036811/Maine WDL #W002101-5B-D-R for a five-year term.

January 6, 2011 – BBE submitted a timely and complete application to the Department to renew the MEPDES permit/Maine WDL.

- c. Replacement Options: BBE has submitted documentation with the previous applications indicating that replacement options are not feasible at this location due to the extent of build-out, the presence of a public well at one potential site and the seasonally high water table at or above ground level at the other undeveloped portion. Additional hydrology studies indicate that installation of individual systems for the 292 single-family dwellings served by the existing OBD treatment system poses an unacceptable contamination threat to groundwater resources.

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. §469 classifies the main stem of the Androscoggin River from its confluence with the Ellis River to a line formed by the extension of the Bath-Brunswick boundary across Merrymeeting Bay in a northwesterly direction, which includes the river at the point of discharge, as Class C waters. Maine law, 38 M.R.S.A. §465(4) describes the standards for Class C waters as follows:

- A. *Class C waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as a habitat for fish and other aquatic life.*
- B. *The dissolved oxygen content of Class C water may be not less than 5 parts per million or 60% of saturation, whichever is higher, except that in identified salmonid spawning areas where water quality is sufficient to ensure spawning, egg incubation and survival of early life stages, that water quality sufficient for these purposes must be maintained. In order to provide additional protection for the growth of indigenous fish, the following standards apply.*
 - (1) *The 30-day average dissolved oxygen criterion of a Class C water is 6.5 parts per million using a temperature of 22 degrees centigrade or the ambient temperature of the water body, whichever is less, if:*
 - (a) *A license or water quality certificate other than a general permit was issued prior to March 16, 2004 for the Class C water and was not based on a 6.5 parts per million 30-day average dissolved oxygen criterion; or*
 - (b) *A discharge or a hydropower project was in existence on March 16, 2005 and required but did not have a license or water quality certificate other than a general permit for the Class C water. This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.*

4. RECEIVING WATER QUALITY STANDARDS (cont'd)

(2) In Class C waters not governed by subparagraph (1), dissolved oxygen may not be less than 6.5 parts per million as a 30-day average based upon a temperature of 24 degrees centigrade or the ambient temperature of the water body, whichever is less. This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004. The department may negotiate and enter into agreements with licensees and water quality certificate holders in order to provide further protection for the growth of indigenous fish. Agreements entered into under this paragraph are enforceable as department orders according to the provisions of sections 347-A to 349.

Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in Class C waters may not exceed a geometric mean of 126 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The board shall adopt rules governing the procedure for designation of spawning areas. Those rules must include provision for periodic review of designated spawning areas and consultation with affected persons prior to designation of a stretch of water as a spawning area.

C. Discharges to Class C waters may cause some changes to aquatic life, except that the receiving waters must be of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community. This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 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 an 8.5-mile reach of the Androscoggin River, main stem, from the Brunswick Dam to the Brunswick-Bath boundary (Hydrologic Unit Code #ME0104000210 / Waterbody ID #426R) as, "Category 4-B: Rivers and Streams Impaired by Pollutants – Pollution Control Requirements Reasonably Expected to Result in Attainment." Impairment in this context refers to the designated use of fishing and a fish consumption advisory due to the presence of dioxin in fish tissues. The Report lists all of Maine's fresh waters as, "Category 4A Waters Impaired by Atmospheric Deposition of Mercury. Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Department has no information at this time that the discharge from the BBE causes or contributes to the impairment status of the receiving waterbody. It is noted the EPA has approved a regional Total Maximum Daily Load (TMDL) for mercury.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: The previous permitting action established a daily maximum discharge flow limitation of 60,000 GPD based on the design flow for the treatment system. Department rule, 06-096 CMR Chapter 523 Section 6(b)(1), specifies, “*effluent limitations, standards, or prohibitions shall be calculated based on design flow.*” The design flow is calculated using a sand filter bed loading factor of 1.05 gallons per day per square foot of filter bed and a total sand filter bed area of 63,640 square feet. This permitting action is carrying forward the daily maximum discharge flow limit of 60,000 GPD, which is considered representative of the design flow for the facility, and is carrying forward a monthly average discharge flow reporting requirement to assist in compliance evaluations.

A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2007 through November 2010 indicates the permittee has been in compliance with the daily maximum limit 100% of the time during said period as values have been reported as follows;

Flow (DMRs=47)

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Monthly average	Report	22,855 – 40,883	27,971
Daily maximum	60,000	25,272 – 44,234	31,575

- b. Dilution Factors: Dilution factors associated with the permitted discharge flow of 60,000 GPD from the BBE facility were derived in accordance with Department rule, 06-096 CMR, Chapter 530 Section 4.A Surface Water Toxics Control Program. Dilution factors were calculated by the Department as follows:

Acute: 5.4:1

Chronic: 9.7:1

Harmonic Mean: 29.1:1

These dilution factors were estimated according to the best information available including ambient water quality data submitted to the Department by Friends of Merrymeeting Bay in a letter dated February 25, 2011, bathymetry data collected and CORMIX modeling by the Department on September 12, 2011.

It is noted BBE is currently evaluating modifications to the outfall pipe to increase the dilution factors associated with the discharge. If modifications are made to the outfall, the Department will reconsider the calculations and modeling to determine new dilution factors. Once the new dilution factors are established, the Department will modify the permit accordingly via a minor revision pursuant to Special Condition K, Reopening of Permit For Modifications, to revised applicable water quality based limitations and monitoring requirements.

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

- c. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS): The previous permitting action established, and this permitting action is carrying forward, technology-based monthly average and weekly average BOD₅ and TSS concentration limits of 30 mg/L and 45 mg/L, respectively, based on secondary treatment requirements as defined in Department rule, 06-096 CMR Chapter 525(3)(III). The previous permitting action established, and this permitting action is carrying forward, technology-based daily maximum BOD₅ and TSS concentration limits of 50 mg/L based on a Department best professional judgment (BPJ) of best practicable treatment (BPT).

Department rule Chapter 523, *Waste Discharge License Conditions*, Section 6, *Calculating NPDES permit conditions*, sub-section f(1) states that, "all pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass...." Therefore, the previous permitting action established monthly average, weekly average and daily maximum BOD₅ and TSS mass limitations based on calculations using the design flow for the facility of 60,000 GPD (0.06 million gallons per day, MGD) and the appropriate concentration limits as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs./gal.})(0.06 \text{ MGD}) = 15 \text{ lbs./day}$

Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs./gal.})(0.06 \text{ MGD}) = 23 \text{ lbs./day}$

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs./gal.})(0.06 \text{ MGD}) = 25 \text{ lbs./day}$

A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2007 through November 2010 indicates the permittee has been in compliance the mass and concentration limits 99% of the time during said period as values have been reported as follows;

BOD Mass (DMRs=47)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	15	0.4 – 11.8	3.3
Weekly Average	23	0.4 – 11.8	3.3
Daily Maximum	25	0.4 – 13.3	4.4

BOD Concentration (DMRs=47)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	<2 – 44	13
Weekly Average	45	<2 – 44	13
Daily Maximum	50	<2 – 51	19

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**TSS mass (DMRs=47)**

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	15	0.2 - 4.4	1.7
Weekly Average	23	0.2 - 4.4	1.7
Daily Maximum	25	0.2 - 4.5	2.0

TSS concentration (DMRs=47)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	1 - 22	6.8
Weekly Average	45	1 - 22	6.8
Daily Maximum	50	2 - 23	8.4

This permitting action carries forward the requirement for 85% removal for BOD and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3). A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2007 through November 2010 indicates the permittee has been in compliance with the percent removal limits 99% of the time as values have been reported as follows;

BOD % Removal (DMRs=47)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	84 - 99	93

TSS % Removal (DMRs=47)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	93 - 99	95

The previous permitting action established a minimum monitoring frequency requirement of twice per month (2/Month) that is being carried forward in this permitting action for BOD₅ and TSS based on Department guidance for overboard discharge (OBD) systems permitted to discharge between 50,000 and 100,000 gpd.

- d. Settleable Solids: The previous permitting action established a Department BPT daily maximum technology-based concentration limit of 0.3 ml/L for settleable solids along with a monitoring frequency of 2/Week. Both are being carried forward in this permitting action. A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2007 through November 2010 indicates values have been reported as follows;

Settleable solids (DMRs=47)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	0.0 - <0.1	0.0

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

- e. *Escherichia coli* Bacteria: The previous permitting action established year-round monthly average and daily maximum concentration limits for *E. coli* bacteria of 142 colonies/100 ml (geometric mean) and 949 colonies/100 ml (instantaneous level), respectively, which at that time were based on the State of Maine Water Classification Program criteria for Class C waters found at 38 M.R.S.A. §465(4)(B). During calendar year 2005, Maine's Legislature approved new monthly average and daily maximum water quality standards of 126 colonies/100 ml and 236 colonies/100 ml respectively, for water bodies designated as Class C.

This permitting is establishing the new monthly average limit of 126 colonies/100 ml and carrying forward the daily maximum limit of 949 colonies/100 ml given the acute dilution associated with the discharge results in an in-stream bacteria count of <236 colonies/100 ml.

A review of the monthly Discharge Monitoring Report (DMR) data for the period May 2007 – September 2010 indicates the permittee has been in compliance with the limitations 100% of the time during said period as values have been reported as follows:

***E. coli* bacteria (DMRs=16)**

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	142	0.5 – 80	12
Daily Maximum	949	0 - 160	24

- f. Total Residual Chlorine (TRC): The previous permitting action established a daily maximum concentration limit of 1.0 mg/L for TRC. Limitations on TRC are specified 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. With new dilution factors as determined in section 6(b) of this Fact Sheet, end-of-pipe (EOP) water quality-based concentration thresholds for TRC may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Acute Threshold	Chronic Threshold
0.019 mg/L	0.011 mg/L	5.4:1 (A) 9.7:1 (C)	0.10 mg/L	0.11 mg/L

Example calculation: $(0.019 \text{ mg/L})(5.4) = 0.10 \text{ mg/L}$

To meet the water quality based thresholds calculated above, the permittee will have to dechlorinate the effluent prior to discharge. In April of 1999, the Department established a new daily maximum BPT limitation of 0.3 mg/L for facilities that need to dechlorinate their effluent unless calculated water quality based thresholds are lower than 0.3 mg/L. In the case of BBE, the calculated daily maximum water quality based threshold is lower than 0.3 mg/L, thus the water quality based limit 0.10 mg/L is imposed. As for the monthly average limitation, the Department's BPT limitation is 0.1 mg/L. Being that the

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

calculated daily maximum water quality based limit is equal to the BPT limit of 0.1 mg/L, the monthly average BPT limit of 0.1 mg/L is imposed in this permit. This permitting action is carrying forward the minimum monitoring frequency from once per day (1/Day) based on Department guidance for overboard discharge (OBD) systems permitted to discharge between 50,000 and 100,000 GPD, and is carrying forward the “grab” sample type.

TRC monitoring is required any time chlorine-based compounds are in use for effluent disinfection. For instances when the permittee has not utilized chlorine-based compounds for effluent disinfection for an entire reporting period, the permittee shall report “NODI-9” for this parameter on the monthly Discharge Monitoring Report.

A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2007 through November 2010 indicates the permittee has been in compliance with the daily maximum limit 100% of time during said period as values have been reported as follows;

Total residual chlorine (DMRs=47)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.9 – 1.0	0.9

- g. pH: The previous permitting action established a pH range limit of 6.0 – 9.0 standard units pursuant to 06-096 CMR, Department rule Chapter 525(3)(III)(c). The pH range limitation is considered BPT for secondary treated wastewater. This permitting action is carrying forward a minimum monitoring frequency requirement of twice per week (2/Week) for pH based on Department guidance for overboard discharge (OBD) systems permitted to discharge between 50,000 and 100,000 GPD, and is carrying forward the “grab” sample type.

The DMR data for the period calendar year January 2007 to the November 2010 indicates the permittee has been in compliance with the pH range limit 100% of the time as the lowest pH has been reported as 6.5 SUs and the highest pH has been reported as 6.88 SUs.

- h. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: Maine law, 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.

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

WET, priority pollutant and analytical chemistry testing as required by Chapter 530, is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics.

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health AWQC as established in Chapter 584.

Chapter 530 establishes four categories of testing requirements based predominately on the chronic dilution factor. The categories are as follows:

- 1) Level I – chronic dilution factor of <20:1.
- 2) Level II – chronic dilution factor of >20:1 but <100:1.
- 3) Level III – chronic dilution factor >100:1 but <500:1 or >500:1 and Q >1.0 MGD
- 4) Level IV – chronic dilution >500:1 and Q <1.0 MGD

Department rule Chapter 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee's facility falls into the Level I frequency category as the facility has a chronic dilution factor of <20:1. Chapter 530(1)(D)(1) specifies that routine screening and surveillance level testing requirements are as follows:

Surveillance level testing – Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
I	2 per year	None required	4 per year

Screening level testing – Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
I	4 per year	1 per year	4 per year

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

A review of the data on file with the Department indicates that to date, the permittee has never conducted any WET, analytical chemistry or priority pollutant testing. Therefore, beginning calendar year 2012, the permittee shall commence surveillance level testing as cited above. The permittee shall conduct said testing for the first four years of the term of the permit. Beginning 12 months prior to permit expiration, the permittee shall increase the monitoring frequency as indicated on page 11 of this Fact Sheet. Once five years of monitoring has been conducted, the Department will conduct a statistical evaluation in accordance with the methodology established in Department rule Chapter 530, to determine if the test results indicate the discharge exceeds or has a reasonable potential to exceed applicable ambient water quality criteria (AWQC) or ambient water quality thresholds and establish applicable limitations and or monitoring requirements if necessary.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected, and that the discharge as permitted will not cause or contribute to the failure of the water body to meet standards for Class C waters.

8. PUBLIC COMMENTS

Public notice of this application was made in a local newspaper on or about January 5, 2011. 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

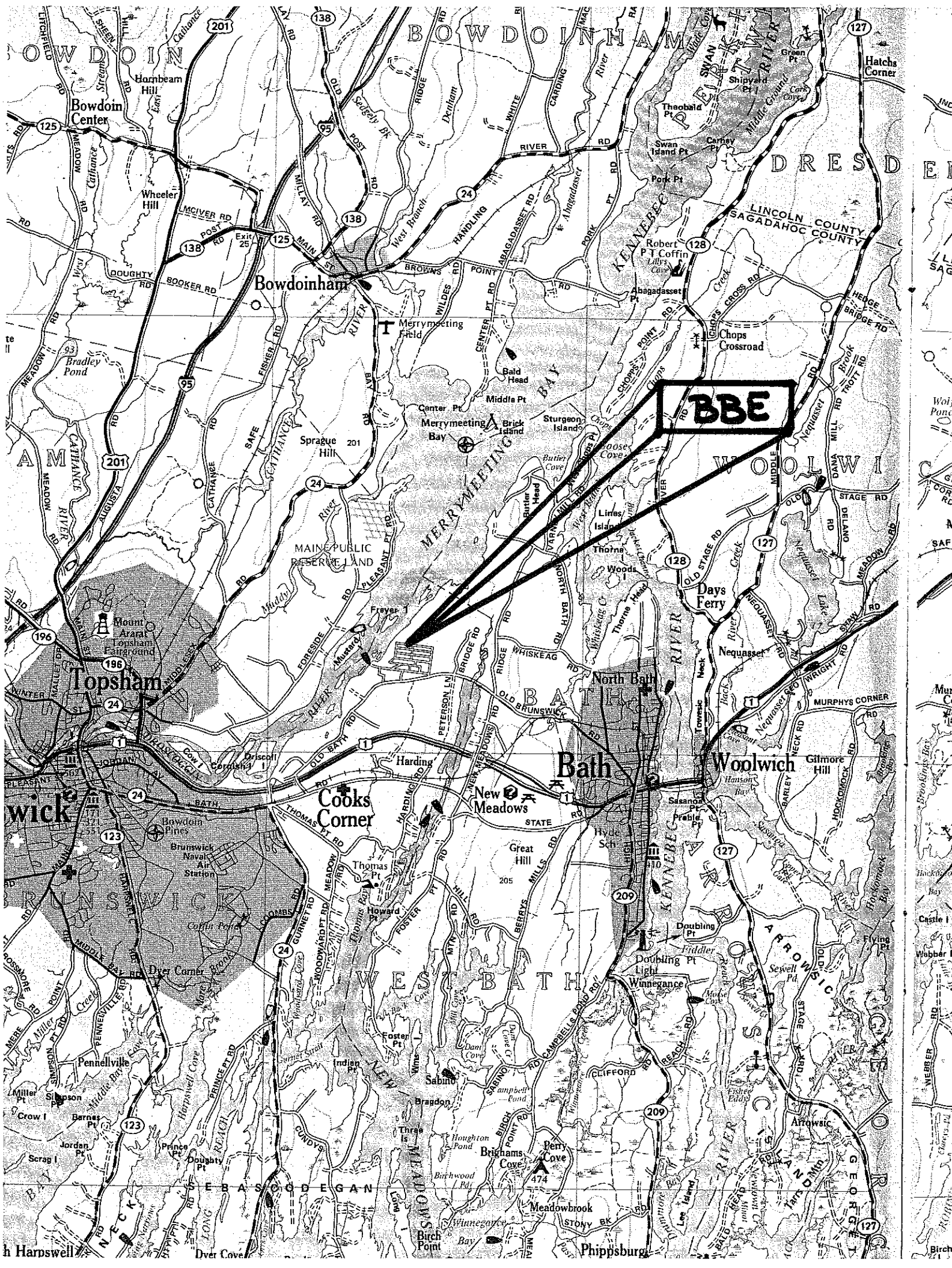
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017
(207) 287-7693
E-mail: gregg.wood@maine.gov

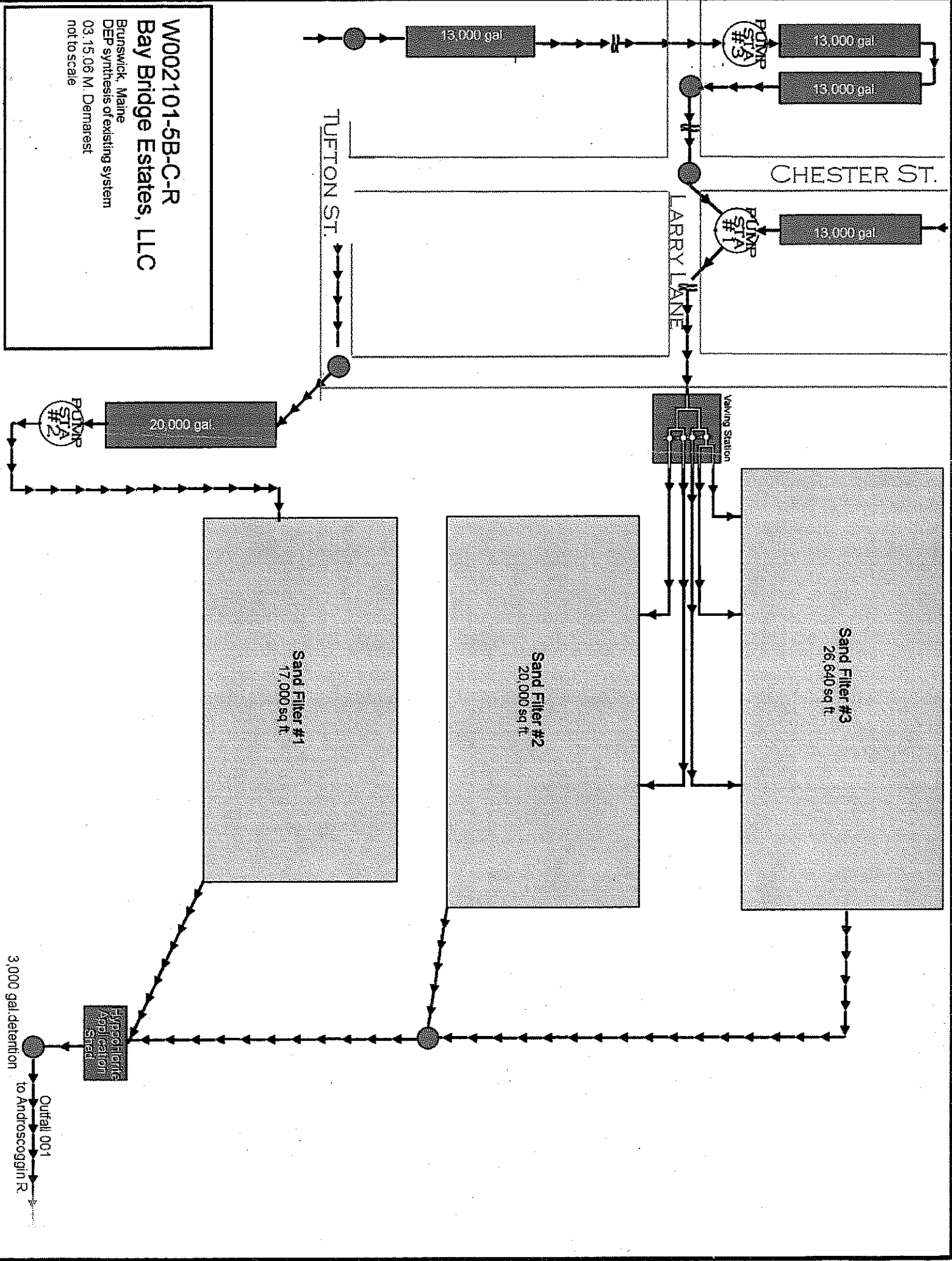
10. RESPONSE TO COMMENTS

During the period of January 26, 2011, 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 permittee's 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



ATTACHMENT B



W002101-5B-C-R
Bay Bridge Estates, LLC
Brunswick, Maine
DEP synthesis of existing system
03.15.06 M. Demarest
not to scale

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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A. GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

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

2. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

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

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

5. Bypasses.

(a) Definitions.

- (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

- (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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

6. Upsets.

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

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C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

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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.

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.
