



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

December 2, 2011

VIA ELECTRONIC MAIL

Mr. Scott Firmin, P.E.
Portland Water District
P.O. Box 3553
Portland, ME 04104
sfirmin@pwd.org

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0102121
Maine Waste Discharge License (WDL) Application # W006751-6C-H-R
Final Permit/WDL – Portland Water District, Cape Elizabeth WWTF

Dear Mr. Firmin:

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

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

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

Sincerely,

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

Enclosure

Cc: Matt Hight, DEP/SMRO Lori Mitchell, DEP/DMU Sandy Mojica, EPA



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

**DEPARTMENT ORDER
IN THE MATTER OF**

PORTLAND WATER DISTRICT)	MAINE POLLUTANT DISCHARGE
CAPE ELIZABETH, CUMBERLAND)	ELIMINATION SYSTEM PERMIT
COUNTY, MAINE)	
PUBLICLY OWNED TREATMENT WORKS)	AND
ME0102121)	WASTE DISCHARGE LICENSE
W006751-6C-H-R)	RENEWAL
		APPROVAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251 et seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (“Department,” hereinafter) has considered the application of the PORTLAND WATER DISTRICT (“permittee,” hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The Portland Water District (“permittee”) has submitted a timely and complete application to the Department to renew combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102121/ Maine Waste Discharge License (WDL) #W006751-5L-D-R, (“permit”) which was issued on July 5, 2006, subsequently modified on 12/10/08, 12/08/10 and 12/22/10 and expired on September 30, 2011. The permit approved the monthly average discharge of up to 0.499 million gallons per day (MGD) of secondary treated waste water from a municipal waste water treatment facility to Peabbles Cove, Class SB, in Cape Elizabeth, Maine. See **Attachment A** of this Fact Sheet for a site location map.

PERMIT MODIFICATION REQUESTED

The permittee is requesting settleable solids testing frequency reduction from once per day (1/Day), June 1 to September 30, to five per week (5/Week), year-round.

PERMIT MODIFICATION REQUESTS GRANTED

The Department is granting the permittee’s request to reduce the settleable solids testing frequency from 1/Day, June 1 – September 30, to 5/Week, year-round, based on the permittee’s compliance history and to maintain consistency with similar permits.

PERMIT SUMMARY

Terms and conditions: This permit carries forward all terms and conditions of the July 5, 2006 MEPDES permit/WDL and subsequent modifications with the following exception:

1. Reducing the settleable solids minimum monitoring frequency from 1/Day, June 1 – September 30, to 5/Week, year-round, based on the permittee's compliance history and to maintain consistency with similar permits.
2. Reducing seasonal pH monitoring from daily to 5/week based on the permittee's compliance history and to maintain consistency with similar permits.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated December 2, 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., Section 464(4)(F), will be met, in that:
 - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - b. Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
 - c. The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet 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 quality will be maintained and protected; and
 - e. Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following the opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the above noted application of the PORTLAND WATER DISTRICT to discharge an unspecified quantity of flow (design capacity of 0.52 MGD) of secondary treated sanitary waste waters to Peabbles Cove, Class SB. The discharges shall be subject to the attached conditions and all applicable standards and regulations:

1. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,”* revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all 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 July 5, 2011
Date of application acceptance July 7, 2011

This Order prepared by Phyllis Arnold Rand, BUREAU OF LAND & WATER QUALITY

ME0102121 2011

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge secondary treated waste waters to the tidewaters of Peabbles Cove from **Outfall #001**. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow [50050]	Report (MGD) _[03]	---	Report (MGD) _[03]	---	---	---	Continuous _[99/99]	Recorder _[RC]
Biochemical Oxygen Demand (BOD ₅) _[00310]	130 lbs/day _[26]	195 lbs/day _[26]	Report lbs/day _[26]	30 mg/L _[19]	45 mg/L _[19]	50 mg/L _[19]	1/Week _[01/07]	Composite _[24]
BOD5 % Removal ⁽¹⁾ _[81010]	---	---	---	85% _[23]	---	---	1/Month _[01/30]	Calculate _[CA]
Total Suspended Solids (TSS) _[00530]	130 lbs/day _[26]	195 lbs/day _[26]	Report lbs/day _[26]	30 mg/L _[19]	45 mg/L _[19]	50 mg/L _[19]	1/Week _[01/07]	Composite _[24]
TSS % Removal ⁽¹⁾ _[81011]	---	---	---	85% _[23]	---	---	1/Month _[01/30]	Calculate _[CA]
Settleable Solids _[00545]	---	---	---	---	---	0.3 mL/L _[25]	5/Week _[05/07]	Grab Grab _[GR]
Fecal Coliform Bacteria ⁽²⁾ _[31616] (May 15 – Sept. 30)	---	---	---	15/100 mL ⁽³⁾ _[13]	---	50/100 mL _[13]	1/Week _[01/07]	Grab _[GR]
Total Residual Chlorine ⁽⁴⁾ _[50060]	---	---	---	0.1 mg/L _[19]	---	0.23 mg/L _[19]	1/Day _[01/01]	Grab _[GR]
pH (Std. Units) _[00400]	---	---	---	---	---	6.0-9.0 _[12]	5/Week _[05/07]	Grab _[GR]
Mercury ⁽⁸⁾ _[50286]	---	---	---	0.0065 ug/L _[28]	---	0.0098 ug/L _[28]	1/Quarter _[01/90]	Grab _[GR]

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

SURVEILLANCE LEVEL TESTING – Beginning upon permit issuance and lasting through 12 months prior to permit expiration.

Effluent Characteristic	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 ⁽⁵⁾ <u>Acute – NOEL</u> <i>Mysidopsis bahia</i> [TDM3E] (Mysid Shrimp)	---	---	---	Report % [23]	1/2 Years [01/2Y]	Composite [24]
<u>Chronic – NOEL</u> <i>Arbacia punctulata</i> [TBH3A] (Sea urchin)	---	---	---	Report % [23]	1/2 Years [01/2Y]	Composite [24]
Analytical chemistry ⁽⁶⁾ [51168]	---	---	---	Report ug/L [28]	1/2 Years [01/2Y]	Composite/Grab [24]

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

SCREENING LEVEL TESTING - Beginning 12 months prior to permit expiration and every five years thereafter.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity ⁽⁵⁾ <u>Acute – NOEL</u> <i>Mysidopsis bahia</i> [TDM3E] (Mysid Shrimp)	---	---	---	Report % [23]	2/Year [02/YR]	Composite [24]
<u>Chronic – NOEL</u> <i>Arbacia punctulata</i> [TBH3A] (Sea urchin)	---	---	---	Report % [23]	2/Year [02/YR]	Composite [24]
Analytical chemistry ⁽⁶⁾ [51168]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority pollutant ⁽⁷⁾ [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

SPECIAL CONDITIONS

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

Footnotes:

Sampling Locations:

Influent sampling for BOD₅ and TSS is being sampled after screening and grit removal.

Secondary effluent sampling- For flow, biochemical oxygen demand, total suspended solids, settleable solids and pH, samples shall be collected from the effluent wet well. Fecal coliform and total residual chlorine samples shall be collected at the dechlorination structure at Peabbles Cove. Any change in sampling location(s) must be reviewed and approved by the Department in writing.

Sampling – Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine’s Department of Human Services for waste water testing. 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.

1. **Percent removal** – For secondary treated waste waters, the facility shall maintain a minimum of 85 percent removal of both BOD₅ and TSS. For both primary treated and secondary treated waste waters, the percent removal shall be based on a monthly average value calculated based on influent and effluent concentrations. The percent removal shall be waived when the monthly average influent concentration is less than 200 mg/L. For instances when this occurs, the facility shall report “*NODI-9*” on the monthly Discharge Monitoring Report.

SPECIAL CONDITIONS

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

Footnotes:

2. **Fecal coliform bacteria** - Limits and monitoring requirements are seasonal and apply from May 15th to September 30th of each year. The Department reserves the right to impose year-round limitations and monitoring requirements to protect the health and welfare of the public.
3. **Fecal coliform bacteria** – The monthly average limitation is a geometric mean limitation and values shall be calculated and reported as such.
4. **Total residual chlorine (TRC)** – Limitations and monitoring requirements are in effect any time elemental chlorine or chlorine based compounds are utilized to disinfect the discharge(s). The permittee shall utilize an EPA-approved test method capable of bracketing the TRC limitations specified in this permitting action.
5. **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 water quality thresholds of 5.7% and 1.3%, 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.
 - a. **Surveillance level testing** - Beginning upon issuance of this permit and lasting through 12 months prior to permit expiration, the permittee shall conduct surveillance level WET testing at a minimum frequency of once every two years (1/2 Years). Testing shall be conducted in a different calendar quarter of each year. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*).
 - b. **Screening level testing** - Beginning 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level WET testing at a frequency of 2/Year. There shall be a minimum of six (6) months between testing events. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*).

Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, the permittee may review the toxicity reports for up to 10 business days after receiving the test results from the laboratory conducting the testing 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 5.7%

SPECIAL CONDITIONS

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

Footnotes:

and 1.3%, respectively. See **Attachment B** of this permit for a copy of the Department's WET report form.

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 Marine and Estuarine Organisms, Third Edition, October 2002, EPA-821-R-02-014.
- 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.

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.

6. **Analytical chemistry** – Refers to a suite of chemical tests listed in **Attachment A** of this permit. Screening level testing shall be conducted once per quarter (1/Quarter) for four consecutive calendar quarters beginning 12 months prior to expiration of the permit and every five years thereafter. Surveillance level analytical chemistry testing shall be conducted once every two years (1/2 Years).
 - a. **Surveillance level testing** – Beginning upon issuance of this permit and lasting through 12 months prior to permit expiration, the permittee shall conduct surveillance level analytical chemistry testing at a minimum frequency of once every other year (1/2Years). Testing shall be conducted in a different calendar quarter of each year.
 - b. **Screening level testing** - Beginning 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter).
7. **Priority pollutant testing** – Refers to a suite of chemical tests listed in **Attachment A** of this permit. Screening level testing shall be conducted once per year (1/Year) beginning 12 months prior to expiration of the permit and every five years thereafter. Surveillance level priority pollutant testing is waived pursuant to 06-096 CMR 530 (2)(D).

SPECIAL CONDITIONS

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

Footnotes:

Priority pollutant and analytical chemistry 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. Analytical chemistry and priority pollutant testing shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests, when applicable, and shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve the most current 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 06-096 CMR 584. For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

8. **Mercury** – All mercury sampling (4/Year) required to determine compliance with interim limitations established pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001) shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses shall be conducted in accordance with EPA Method 1631E, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment C**, *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharge shall not impart color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsafe for the designated uses and characteristics ascribed to their classification.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS (cont'd)

4. Notwithstanding specific conditions of this permit, the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. 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.

D. LIMITATIONS FOR INDUSTRIAL USERS

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

E. NOTIFICATION REQUIREMENT

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

1. Any introduction of pollutants into the waste water collection and treatment system from an indirect discharger in a primary industrial category discharging process waste water; and;
2. Any substantial change in the volume or character of pollutants being introduced into the waste water 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 waste water introduced to the waste water collection and treatment system; and
 - (b) any anticipated impact caused by the change in the quantity or quality of the waste water to be discharged from the treatment system.

SPECIAL CONDITIONS

F. 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 July 7, 2011; 2) the terms and conditions of this permit; and 3) 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.

G. 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING

By December 31 of each calendar year, the permittee shall provide the Department with a certification describing any of the following that have occurred since the effective date of this permit [*PCS Code 95799*]:

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

In addition, in the comments section of the certification form, the permittee shall provide the Department with statements describing;

- (d) Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge.
- (e) Increases in the type or volume of hauled wastes accepted by the facility.

The Department reserves the right to reinstate annual (surveillance level) testing or other toxicity testing if new information becomes available that indicates the discharge may cause or have a reasonable potential to cause exceedences of ambient water quality criteria/thresholds. See **Attachment G** of the attached Fact Sheet for an acceptable certification form to satisfy this Special Condition.

H. DISPOSAL OF TRANSPORTED WASTES IN WASTE WATER TREATMENT FACILITY

The permittee is not permitted to accept transported wastes.

SPECIAL CONDITIONS

I. HIGH FLOW MANAGEMENT PLAN

The permittee shall maintain a High Flow Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall. The plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events. **The permittee shall review their plan annually** and record any necessary changes to keep the plan up to date.

J. 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, and 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 waste water 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, the permittee shall submit the updated O&M Plan to their Department inspector for review and comment.

K. ASSET MANAGEMENT PROGRAM (AMP)

The permittee shall have a current written AMP in accordance with Department guidance entitled, *Maine Department of Environmental Protection, Clean Water State Revolving Fund (CWSRF) Guidance for Minimum Requirements for an Asset Management Program and Reserve Account In Order to Qualify for CWSRF Principal Forgiveness*, DEPLW1190-2010. The AMP shall be reviewed and updated as necessary at least annually. The AMP shall be kept onsite at the permittee's office and made available to Department staff for review during normal business hours.

SPECIAL CONDITIONS

L. REPAIR AND REPLACEMENT RESERVE ACCOUNT

The permittee shall fund a Repair and Replacement Reserve Account annually in the amount recommended in the permittee's Asset Management Plan or at a minimum of 2% of the permittee's total yearly waste water operation and maintenance budget.

On or before November 1 of each year [PCS Code 59499], the permittee shall submit a certification to the Department indicating a Repair and Replacement Reserve Account has been fully funded as required above. See **Attachment D** of this permit for a copy of the certification form. The permittee shall attach copies of yearly audit reports to the annual certification forms showing funds in the reserve account for each year for the five years and, if funds were expended, what the funds were used for.

M. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period.

A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

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

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory **not later than close of business on the 15th day of the month** following the completed reporting period. **Hard Copy documentation** submitted in support of the eDMR must be **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. **Electronic documentation** in support of the eDMR must be submitted **not later than close of business on the 15th day of the month** following the completed reporting period.

SPECIAL CONDITIONS

N. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results in the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at anytime and with notice to the permittee, modify this permit to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

O. 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 # _____ Facility Representative Signature _____
 Pipe # _____ 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(arine) or F(resh)

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

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

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

MARINE AND ESTUARY VERSION
 Please see the footnotes on the last page.

WHOLE EFFLUENT TOXICITY		Effluent Limits, %			Receiving Water or Ambient	Effluent Concentration (ug/L or as noted)	WET Result, % Do not enter % sign	Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
		Acute	Chronic	Acute					Chronic		
	Mysid Shrimp										
	Sea Urchin										
WET CHEMISTRY											
	pH (S.U.) ⁽⁹⁾				(8)						
	Total Organic Carbon (mg/L)				NA						
	Total Solids (mg/L)				NA						
	Total Suspended Solids (mg/L)				NA						
	Salinity (ppt.)										
ANALYTICAL CHEMISTRY ⁽³⁾											
	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L					Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
			Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾				Acute	Chronic	Health
	TOTAL RESIDUAL CHLORINE (mg/L) ⁽⁹⁾	0.05				NA					
	AMMONIA	NA				(8)					
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⁾		Effluent Limits			Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
	Reporting Limit	Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾		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						

**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.

V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									
V	BROMOFORM	5									
V	CARBON TETRACHLORIDE	5									
V	CHLOROBENZENE	6									
V	CHLORODIBROMOMETHANE	3									
V	CHLOROETHANE	5									
V	CHLOROFORM	5									
V	DICHLOROBROMOMETHANE	3									
V	ETHYLBENZENE	10									
V	METHYL BROMIDE (Bromomethane)	5									
V	METHYL CHLORIDE (Chloromethane)	5									
V	METHYLENE CHLORIDE	5									
V	TETRACHLOROETHYLENE (Perchloroethylene or Tetrachloroethene)	5									
V	TOLUENE	5									
V	TRICHLOROETHYLENE (Trichloroethene)	3									
V	VINYL CHLORIDE	5									

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
MARINE WATERS**

Facility Name _____ MEPDES Permit # _____
Pipe # _____

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
	mysisd shrimp	sea urchin	
A-NOEL			A-NOEL
C-NOEL			C-NOEL

Data summary	mysisd shrimp	sea urchin	Salinity Adjustment
	% survival	% fertilized	
QC standard	>90	>70	
lab control			brine
receiving water control			sea salt
conc. 1 (%)			other
conc. 2 (%)			
conc. 3 (%)			
conc. 4 (%)			
conc. 5 (%)			
conc. 6 (%)			
stat test used			

place * next to values statistically different from controls

Reference toxicant	mysisd shrimp	sea urchin
	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 (Marine Version), March 2007."

ATTACHMENT C

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____
 Pipe # _____

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

SAMPLE COLLECTION INFORMATION

Sampling Date:	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> <tr> <td style="text-align: center; font-size: 8px;">mm</td> <td style="text-align: center; font-size: 8px;">dd</td> <td style="text-align: center; font-size: 8px;">yy</td> </tr> </table>				mm	dd	yy	Sampling time:	_____ AM/PM
mm	dd	yy							
Sampling Location: _____									
Weather Conditions: _____									
Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection: _____									
Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results: _____									
Suspended Solids _____ mg/L		Sample type: _____ Grab (recommended) or _____ Composite							

ANALYTICAL RESULT FOR EFFLUENT MERCURY

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

CERTIFICATION

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

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT D

CLEAN WATER STATE REVOLVING FUND
REPAIR AND REPLACEMENT RESERVE ACCOUNT
CERTIFICATION

I _____ representing the _____
(print name of cognizant official) *(print name of permittee)*

hereby certify to the Maine Department of Environmental Protection that as of _____
(date)

a *Clean Water State Revolving Fund (CWSRF) Repair and Replacement Reserve Account* has been established and is fully funded in accordance with Department Guidance entitled, *Maine Department of Environmental Protection, Clean Water State Revolving Fund (CWSRF) Guidance for Minimum Requirements for an Asset Management Program and Reserve Account In Order to Qualify for CWSRF Principal Forgiveness, DEPLW1190-2010*; and

That our total yearly wastewater operation and maintenance budget for the previous year was \$ _____; and

That the amount recommended in our asset management plan, or as a minimum, 2% of our total yearly wastewater operation and maintenance budget was \$ _____; and

That \$ _____ was deposited to the Repair and Replacement Reserve Account last year; and

That \$ _____ was expended from this account last year in accordance with the Department Guidance; and

That the current balance of the Repair and Replacement Reserve Account is \$ _____.

Signature _____

Date _____

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

FACT SHEET

December 2, 2011

PERMIT NUMBER: **ME0102121**
LICENSE NUMBER: **W006751-6C-H-R**

NAME AND ADDRESS OF APPLICANT:

**PORTLAND WATER DISTRICT
225 Douglas Street, P.O. Box 3553
Portland, Maine 04104**

COUNTY: **Cumberland County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**488 Spurwink Avenue
Cape Elizabeth, Maine 04107**

RECEIVING WATER/CLASSIFICATION: **Peabbles Cove/Class SB**

COGIZANT OFFICIAL AND TELEPHONE NUMBER: **Scott Firmin, PE**
(207) 774-5961 x 3077
E-mail: sfirmin@pwd.org

1. APPLICATION SUMMARY

Application: The Portland Water District (“permittee”) has submitted a timely and complete application to the Department to renew combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102121/ Maine Waste Discharge License (WDL) #W006751-5L-D-R, (“permit”) which was issued on July 5, 2006, subsequently modified on 12/10/08, 12/08/10 and 12/22/10 and expired on September 30, 2011. The permit approved the monthly average discharge of up to 0.499 million gallons per day (MGD) of secondary treated waste water from a municipal waste water treatment facility to Peabbles Cove, Class SB, in Cape Elizabeth, Maine. See **Attachment A** of this Fact Sheet for a site location map.

2. PERMIT MODIFICATION REQUESTED

The permittee is requesting settleable solids testing frequency reduction from once per day (1/Day), June 1 to September 30, to five per week (5/Week), year-round.

3. PERMIT MODIFICATION REQUESTS GRANTED

The Department is granting the permittee's request to reduce the settleable solids testing frequency from 1/Day, June 1 – September 30, to 5/Week, year-round, based on the permittee's compliance history and to maintain consistency with similar permits.

4. PERMIT SUMMARY

a. Terms and conditions: This permit carries forward all terms and conditions of the July 5, 2006 MEPDES permit/WDL and subsequent modifications with the following exception:

1. Reducing the settleable solids minimum monitoring frequency from 1/Day, June 1 –September 30, to 5/Week, year-round, based on the permittee's compliance history and to maintain consistency with similar permits.
2. Reducing seasonal pH monitoring from daily to 5/week based on the permittee's compliance history and to maintain consistency with similar permits.

b. History: The most recent/relevant regulatory actions include the following:

September 3, 1986 – The Department issued WDL #W006751-46-A-N for a five-year term. This was the original WDL for the newly constructed waste water treatment facility.

September 19, 1995 – The U.S. Environmental Protection Agency (EPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0102121 for five-year term.

May 28, 1996 – The Department issued WDL renewal #W006751-59-B-R for a five-year term.

May 23, 2000 – The Department administratively modified WDL #W006751-59-B-R by establishing interim average and maximum concentration limits for mercury.

December 17, 2001 – The Department issued combination MEPDES permit #ME0102121/WDL W006751-5L-C-R for a five-year term.

July 5, 2006 – The Department issued combination MEPDES permit #ME0102121/WDL W006751-5L-D-R for a five-year term.

December 10, 2008 – The Department modified MEPDES permit #ME0102121/WDL W006751-5L-D-R to acknowledge the existence of an unpermitted bypass pumping system at a major pump station operated by the permittee; established a schedule of compliance for the completion of the Phase I upgrade project to eliminate/mitigate the pump station bypass operation; increased the BOD5 and TSS monthly average and

4. PERMIT SUMMARY (cont'd)

weekly average mass limitations based on the permittee's original dry weather design flow of 0.52 MGD; modified the existing monthly average flow limitation of 0.499 MGD to "Report" only, given the extended wet weather flow events; modified the daily maximum mass limits for BOD5 and TSS to "Report" only; modified the expiration date from July 5, 2011 to September 30, 2011, which is the completion date for the Phase I upgrade project. The modification was assigned WDL #W006751-5L-E-M.

December 8, 2010 – The Department modified Special Condition O, *Schedule of Compliance*, in MEPDES permit #ME0102121/WDL W006751-5L-D-R. The modification eliminated references to past due schedule items and modified the date by which to commence construction of the permittee's Phase I upgrade from April 30, 2010 to September 30, 2010. The modification was assigned WDL #W006751-6C-F-M.

December 22, 2010 – The Department modified MEPDES permit #ME0102121/WDL W006751-5L-D-R by establishing special conditions for the permittee to establish and implement an Asset Management Program and a Repair and Replacement Reserve Account. The modification was assigned WDL # W006751-6C-G-M.

July 5, 2011 – The permittee submitted a timely application for renewal of MEPDES permit #ME0102121/WDL W006751-5L-D-R subsequently modified on December 10, 2008, December 8, 2010 and December 22, 2010. The application was accepted as complete on July 7, 2011 and assigned WDL # W006751-6C-H-R.

- c. Source Description: The permittee treats domestic and commercial sanitary waste water from approximately 3,100 customers in the Town of Cape Elizabeth, Maine. There are no significant industrial contributors or industries with industrial pretreatment requirements connected to the collection system. The collection system is approximately 7.67 miles long, has 13 pump stations, is 100% separated and has no combined sewer overflow points. One of the pump stations (Spurwink Road) has an on-site generator to provide back-up power in the event of a power failure and the remaining 12 stations have emergency generator receptacles and manual transfer switches such that back-up power via a portable generator can be supplied to the stations in the event of a power failure. The Spurwink Road pump station has been configured such that during wet weather events when the piping from the pump station to the waste water treatment facility is at full capacity, excess untreated waste water bypasses the pump station and is conveyed to the permittee's outfall pipe where it co-mingles with secondary treated waste water and is discharged to Peabbles Cove. The permittee is currently undergoing an upgrade in order to allow the bypassed influent to receive secondary treatment and disinfection. The upgrade will increase the permittee's instantaneous flow capacity to 2.75 MGD.

The permittee is not permitted to accept transported wastes.

- d. Waste Water Treatment: The permittee provides a secondary level of treatment via a bar screen, grit removal, two oxidation ditches (each with a volume of 200,000 gallons) with mechanical aeration, two secondary clarifiers (each 50 feet in diameter and 11 feet deep), a disinfection system utilizing sodium hypochlorite and a dechlorination system utilizing

4. PERMIT SUMMARY (cont'd)

sodium bisulfite. Disinfection is accomplished by injecting sodium hypochlorite into the effluent force main and the 2.5-mile long piping is utilized for chlorine contact purposes.

The outfall pipe is a ductile iron pipe measuring 18 inches in diameter fitted with a 90° elbow that necks the pipe down to 12 inches in diameter. The pipe extends out into the receiving water such that there is approximately 4 feet of water over the top of the pipe at mean low water and 9 feet of water over the top of the pipe at mean high tide. See **Attachment B** of this Fact Sheet for a plant schematic diagram.

5. CONDITIONS OF PERMITS

Conditions of Licenses, 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, *Certain Deposits and Discharges Prohibited*, 38 M.R.S.A. Section 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005), require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

6. RECEIVING WATER QUALITY STANDARDS

Classification of Major River Basins, 38 M.R.S.A. §469 classifies Peabbles Cove at the point of discharge as a Class SB waterway. *Standards for the Classification of estuarine and marine waters*, 38 M.R.S.A. §465-B(2) describes the classification standards for Class SB waterways.

7. RECEIVING WATER QUALITY CONDITIONS

The *State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report*, prepared by the Department pursuant to §303(d) and §305(b) of the Federal Water Pollution Control Act (referred to as the "305b Report"), lists Portland Water District, Cape Elizabeth (Waterbody ID 804-7) as, "*Category 4-A: Estuarine and Marine Waters with Impaired Use, TMDL Completed.*" The cause of the impaired use is bacteria from combined sewer overflows (formerly Category 5-B-2). The Statewide Maine Bacteria TMDL was approved by the U.S. Environmental Protection Agency in 2009 and the goal for attainment in the affected waterbody is sewer separation.

The 305b Report lists all estuarine and marine waters capable of supporting American lobster as, "*Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants.*" Impairment in this context refers to these waters partially supporting the designated use of fishing (fish and shellfish consumption) due to elevated levels of PCBs in tissues of some fish as well as other persistent bioaccumulating substances in lobster tomalley. The

7. RECEIVING WATER QUALITY CONDITIONS (cont'd)

Department has no information at this time that the discharge from the permittee causes or contributes to this nonattainment status.

The Maine Department of Marine Resources (DMR) assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The DMR has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality. The DMR traditionally closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (in-stream thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions. In addition, the DMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Thus, shellfish harvesting area #13, Western Casco Bay and Islands (Cape Elizabeth to Falmouth), is prohibited for the harvesting of shellfish. The shellfish closure area is identified on the map included as Fact Sheet **Attachment C**.

8. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Flow: On December 10, 2008, the Department modified the permittee's monthly average flow limit to a "report" only requirement given the extended wet weather flow events.

A summary of the monthly Discharge Monitoring Report (DMR) data for the period July 1, 2006 – July 1, 2011 (n=32) indicates the permittee discharged monthly average effluent flows in the range of 0.17 MGD to 0.59 MGD with an arithmetic mean of 0.31 MGD. Daily maximum flows for the same period (n=32) ranged from 0.24 MGD to 1.43 MGD with an arithmetic mean of 0.62 MGD.

- b. Dilution Factors: *Surface Water Toxics Control Program*, 06-096 CMR 530 (4)(a)(2) states:

- (1) *For estuaries where tidal flow is dominant and marine discharges, dilution factors are calculated as follows. These methods may be supplemented with additional information such as current studies or dye studies.*
- (a) *For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model.*
- (b) *For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.*

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

(c) *In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor.*

Using plan and profile information previously submitted to the Department by the permittee and the CORMIX model, the Department has determined the dilution factors for the discharge of 0.499 MGD from the waste water treatment facility are as follows:

Acute = 17.4:1 Chronic = 74.8:1 Harmonic mean = 224:1⁽¹⁾

Footnote:

⁽¹⁾ Pursuant to 06-096 CMR 530, the harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by a factor of three (3).

c. Biochemical Oxygen Demand & Total Suspended Solids: This permitting action is carrying forward the monthly and weekly average biochemical oxygen demand (BOD5) and total suspended solids (TSS) concentration limits of 30 mg/L and 45 mg/L respectively, based on secondary treatment requirements pursuant to 06-096 CMR 525(3)(III). The maximum daily BOD5 and TSS concentration limits of 50 mg/L are based on a Department best professional judgment of best practicable treatment (BPT). On December 10, 2008, the Department modified the monthly average and weekly average BOD5 and TSS mass limitations based on the permittee's original dry weather design flow of 0.52 MGD and modified the daily maximum BOD5 and TSS mass limits to "Report" only. This permitting action is carrying forward the mass limitations from the 12/10/08 modifications.

BOD5 and TSS mass limits were derived as follows:

Monthly average = (30 mg/L) (0.52 MGD) (8.34) = 130 lbs/day

Weekly average = (45 mg/L) (0.52MGD) (8.34) = 195 lbs/day

Daily maximum = Report, lbs/day

A review of the DMR data for the period July 1, 2006 – July 1, 2011 indicates the monthly average and daily maximum mass and concentration values for BOD5 & TSS have been reported as follows:

BOD₅ Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	130	7 – 50	23	32	100%
Weekly Average	195	9 – 112	43	32	100%
Daily Maximum	Report	13 – 203	55	32	N/A

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

BOD₅ Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	4 – 18	9	32	100%
Weekly Average	45	5 – 50	16	32	94%
Daily Maximum	50	5 – 50	18	32	100%

TSS mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	130	6 – 25	11	32	100%
Weekly Average	195	9 – 46	20	32	100%
Daily Maximum	Report	11 – 72	28	32	N/A

TSS concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	2 – 11	5	32	100%
Weekly Average	45	3 – 24	8	32	100%
Daily Maximum	50	4 – 33	11	32	100%

The permittee's BOD₅ and TSS percent removal rates for the period of July 1, 2006 – July 1, 2011 ranged from 88% - 98% (n=32) and from 94% - 99% (n=32), respectively.

This permitting action is carrying forward the requirement of 85% removal for BOD₅ and TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3).

Monitoring frequencies for BOD₅ and TSS of 1/Week are being carried forward from the previous permitting action and are based on Department guidance for facilities with monthly average flows between 0.1 MGD – 0.5 MGD.

- d. Settleable Solids: This permitting action is carrying forward the technology-based daily maximum settleable solids limit of 0.3 mL/L. The previous permitting action required a settleable solids monitoring frequency of 1/Day in the summer months (June 1 – September 30) and established a 5/Week monitoring frequency in the non-summer months (October 1 – May 31), the less critical time of the year for water quality impacts. The limitation was based on a Department best professional judgment of BPT. This permitting action is revising the June 1 – September 30 monitoring frequency from 1/Day to 5/Week due to the permittee's excellent compliance history and to maintain consistency with similar permits.

A review of the monthly DMR data for the period July 1, 2006 – July 1, 2011 (n=32) indicates the daily maximum settleable solids concentration has been reported as 0.0 mL/L.

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

- e. Fecal coliform bacteria: This permitting action is carrying forward the seasonal (May 15 – September 30) monthly average and daily maximum fecal coliform limits of 15 colonies/100 mL and 50 colonies/100 mL, respectively. The limits are based on the Water Classification Program criteria for the receiving waters (including standards in the National Shellfish Sanitation Program) and require application of BPT.

A review of the monthly DMR data for the period July 1, 2006 – July 1, 2011 (n=32) indicates the fecal coliform results have been reported as follow:

Fecal coliform bacteria

Value	Limit (col/100 mL)	Range (col/100 ml)	Arith. Mean (col/100 mL)	Number of DMRs	Compliance
Monthly Average	15	1 – 21	6	12	83%
Daily Maximum	50	1 – 2,230	202	12	83%

The monitoring frequency of 1/Week in the previous permitting action is being carried forward in this permitting action and is based on Department guidance for facilities permitted to discharge between 0.1 MGD – 0.5 MGD.

- f. Total Residual Chlorine: Best practicable treatment limitations for TRC are being carried forward in this permitting action. Limits on total residual chlorine are specified to ensure attainment of the in-stream water quality criteria for levels of chlorine and that the best practicable treatment technology is utilized to abate the discharge of chlorine. Total residual chlorine limits are based on the State’s 2005 acute and chronic ambient water quality criteria for marine waters (0.013 mg/L and 0.0075 mg/L, respectively) and the applicable dilution factors of 17.4:1 (acute) and 74.8:1 (chronic).

Water quality based thresholds for TRC can be calculated as follows:

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	13 ug/L	7.5 ug/L	17.4:1	74.8:1	0.23 mg/L	0.56 mg/L

Example calculation, Acute: 0.013 mg/L (17.4) = 0.23 mg/L

To meet the chronic and acute water quality based thresholds calculated above, the permittee must dechlorinate the effluent prior to discharge. In April of 1999, the Department established new daily maximum and monthly average BPT limitations of 0.3 mg/L and 0.1 mg/L, respectively, for facilities that need to dechlorinate their effluent unless calculated water quality based thresholds are lower than the BPT limits. In the case of the permittee, the calculated acute water quality based threshold is lower than the BPT limit of 0.3 mg/L, thus the water quality based limit of 0.23 mg/L is imposed. As

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

for the monthly average limit, the calculated chronic water quality based threshold of 0.56 mg/L is higher than the BPT limit 0.1 mg/L, thus the BPT limit of 0.1 mg/L is imposed in the permit.

A review of the monthly DMR data for the period July 1, 2006 – July 1, 2011 (n=12) indicates the total residual chlorine results have been reported as follow:

Total Residual Chlorine

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)	Number of DMRs	Compliance
Monthly Average	0.1	0.02 – 0.03	0.02	12	100%
Daily Maximum	0.27	0.05 – 0.10	0.07	12	100%

The monitoring frequency of 1/Day in the previous permitting action is being carried forward in this permitting action and is based on Department guidance for facilities permitted to discharge between 0.1 MGD – 0.5 MGD.

- g. pH: This permitting action is carrying forward a pH range limitation of 6.0 –9.0 standard units pursuant to a Department regulation found at 06-096 CMR 525(3)(III)(c) and are considered BPT. This permitting action is reducing the seasonal pH monitoring frequency from 1/Day to 5/Week based on the permittee’s compliance history and to maintain consistency with similar permits. The year-round numerical limitations are being carried forward in this permitting action. In addition, this permitting action is carrying forward the 5/Week monitoring frequency for the non-summer months. The DMR data for the period July 1, 2006 – July 1, 2011 (n=32) indicates the permittee has been in compliance with the pH range limitations 100% of the time.
- h. Mercury: On May 23, 2000, pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420, *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL # W006751-59-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 6.5 parts per trillion (ppt) and 9.8 ppt, respectively, and a minimum monitoring frequency requirement of four tests per year for mercury. The interim mercury limits were scheduled to expire on October 1, 2001; however, effective June 15, 2001, the Maine Legislature enacted *Waste discharge licenses*, 38 M.R.S.A. §413, sub-§11, specifying that interim mercury limits and monitoring requirements remain in effect.

On September 28, 2011, the Maine Legislature enacted, *An Act to Review State Water Quality Standards*, 38 M.R.S.A §420 sub-§1-B(F), allowing the Department to reduce mercury monitoring frequencies to once per year for facilities that maintain at least five (5) years of mercury testing data. While the permittee has at least 5 years of mercury testing data on file, the permittee had five test results that exceeded the interim daily maximum effluent concentration limit. Therefore, the interim mercury limits and

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

monitoring frequency of 4 tests per year remain in effect and enforceable. A review of the Department’s database for the period July 1, 2006 – July 1, 2011 (n=24) indicates mercury test results have ranged from 1.3 ppt to 15.4 ppt with an arithmetic mean of 6.2 ppt. Mercury test results are included as **Attachment D** of this Fact Sheet.

- i. Whole Effluent Toxicity (WET) & Chemical-Specific Testing: 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. 06-096 CMR 530 and 06-096 CMR 584 set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters. WET, priority pollutant and analytical chemistry testing as required by 06-096 CMR 530 are 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. 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 06-096 CMR 584.

06-096 CMR 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

Based on the criteria, the permittee falls into the Level II frequency category as the permittee has a chronic dilution factor ≥20:1 but <100:1. 06-096 CMR 530 (D)(1) specifies that default screening and surveillance level testing requirements are as follows:

Default Screening level testing – Beginning 12 months prior to expiration of the permit and every five years thereafter.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	2 per year	1 per year	4 per year

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

Default 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
II	1 per year	None required	2 per year

See **Attachment E** of this Fact Sheet for a summary of the WET test results and **Attachment F** of this Fact Sheet for a summary of the chemical-specific test dates.

WET Evaluation

On July 1, 2011, the Department conducted a statistical evaluation of the most recent 60 months of WET tests results on file at the Department. The statistical evaluation indicates the discharge from the permittee does not exceed or have a reasonable potential to exceed the critical acute or chronic water quality thresholds of 5.7% and 1.3 %, respectively, (mathematical inverses of the acute and chronic dilution factors of 17.4:1 and 74.8:1, respectively), for any of the WET species specified for testing in 06-096 CMR 530. Therefore, no numeric limitations for any WET species are being established in this permitting action.

As for testing frequencies, 06-096 CMR 530 §(2)(D)(3)(c) states in part that Level II facilities “...*may reduce WET and chemical testing to once every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedences.*” Therefore, based on the results of the 7/01/11 statistical evaluation, the permittee qualifies for the testing reduction. This permitting action is carrying forward the reduced surveillance level testing from the previous permitting action as follows:

Beginning upon issuance of this permit and lasting through 12 months prior to permit expiration:

Level	WET Testing
II	1/2 Years

Surveillance level tests are to be conducted in a different calendar quarter of each testing year.

06-096 CMR 530 §(2)(D) states:

(4) All dischargers having waived or reduced testing must file statements with the Department on or before December 31 of each year describing the following.

(a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;

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

(b) Changes in the operation of the treatment works that may increase the toxicity of the discharge; and

(c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge.

Special Condition G, 06-096 CMR 530(2)(D)(4) Statement for Reduced/Waived Toxics Testing, of this permitting action requires the permittee to file an annual certification with the Department.

Beginning 12 months prior to the expiration date of the permit and every five years thereafter, the permittee shall conduct screening level WET testing as follows:

Level	WET Testing
II	2/Year

There shall be at least six months between testing events.

Chemical specific evaluation

06-096 CMR 530 §(3)(E) states, “*For effluent monitoring data and the variability of the pollutant in the effluent, the Department shall apply the statistical approach in Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.) to data to determine whether water-quality based effluent limits must be included in a waste discharge license. Where it is determined through this approach that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.*”

06-096 CMR 530 §3 states, “*In determining if effluent limits are required, the Department shall consider all information on file and effluent testing conducted during the preceding 60 months. However, testing done in the performance of a Toxicity Reduction Evaluation (TRE) approved by the Department may be excluded from such evaluations.*”

06-096 CMR 530 §4(C), states, “*The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions.*” The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water

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

quality criteria must be used in calculations. The Department has very limited information on the background levels of metals in the water column in and around Pebbles Cove. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

06-096 CMR 530 4(E), states, *“In allocating assimilative capacity for toxic pollutants, the Department shall hold a portion of the total capacity in an unallocated reserve to allow for new or changed discharges and non-point source contributions. The unallocated reserve must be reviewed and restored as necessary at intervals of not more than five years. The water quality reserve must be not less than 15% of the total assimilative quantity.”* Therefore, the Department is reserving 15% of the applicable water quality criteria in the calculations of this permitting action.

06-096 CMR 530 §(3)(E) states *“... that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.*

The 7/01/11 statistical evaluation indicates the discharge does not exceed or have a reasonable potential to exceed any acute, chronic or human health AWQC for any of the chemicals tested to-date. Therefore, no numeric limitations for any chemicals are being established in this permitting action.

06-096 CMR 530 §(2)(D)(3)(c) states in part that Level II facilities, *“...may reduce WET and chemical testing to once every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedences.”* It is noted 06-096 CMR 530 §(2)(D)(1) does not require priority pollutant testing during the surveillance level testing years. Based on the results of the 7/01/11 statistical evaluation, the permittee qualifies for the reduced surveillance level analytical chemistry testing. Analytical chemistry testing is being carried forward from the previous permitting action as follows:

Beginning upon issuance of this permit and lasting through 12 months prior to permit expiration:

Level	Analytical Chemistry
II	1/2 Years

Surveillance level tests are to be conducted in a different calendar quarter of each testing year.

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

For screening level testing, 06-096 CMR 530 §(2)(D)(1) requires that beginning 12 months prior to the expiration date of the permit, priority pollutant testing shall be conducted at a frequency of 1/Year and analytical chemistry testing shall be conducted at a frequency of 1/Quarter. Therefore, screening level chemical is being carried forward as follows:

Beginning 12 months prior to permit expiration and every five years thereafter:

Level	Priority pollutant testing	Analytical chemistry
II	1 per year	1 per quarter

It is noted, however, that if future chemical testing results indicate the discharge exceeds any of the acute, chronic or human health ambient water quality criteria established in 06-096 CMR 584, this permit will be reopened pursuant to Special Condition N, *Reopening of Permit For Modifications*, to establish applicable limitations and monitoring requirements.

9. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody to meet standards for Class SB classification.

10. PUBLIC COMMENTS

Public notice of this application was made in the *Portland Press Herald* on or about July 6, 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 *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

11. DEPARTMENT CONTACTS

Phyllis Arnold Rand
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Tel: (207) 287-7658 Fax: (207) 287-3435
e-mail: phyllis.a.rand@maine.gov

12. RESPONSE TO COMMENTS

During the period of October 24, 2011 through the issuance date of the permit, the Department solicited comments on the proposed draft permit to be issued for the discharge(s) from the permittee's facility. The Department received comments from the Maine Department of Marine Resources (DMR) in electronic mail correspondence dated November 7, 2011 and from Department staff (Staff). No comments were received 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 except as stated below. Comments and the Department's responses are below:

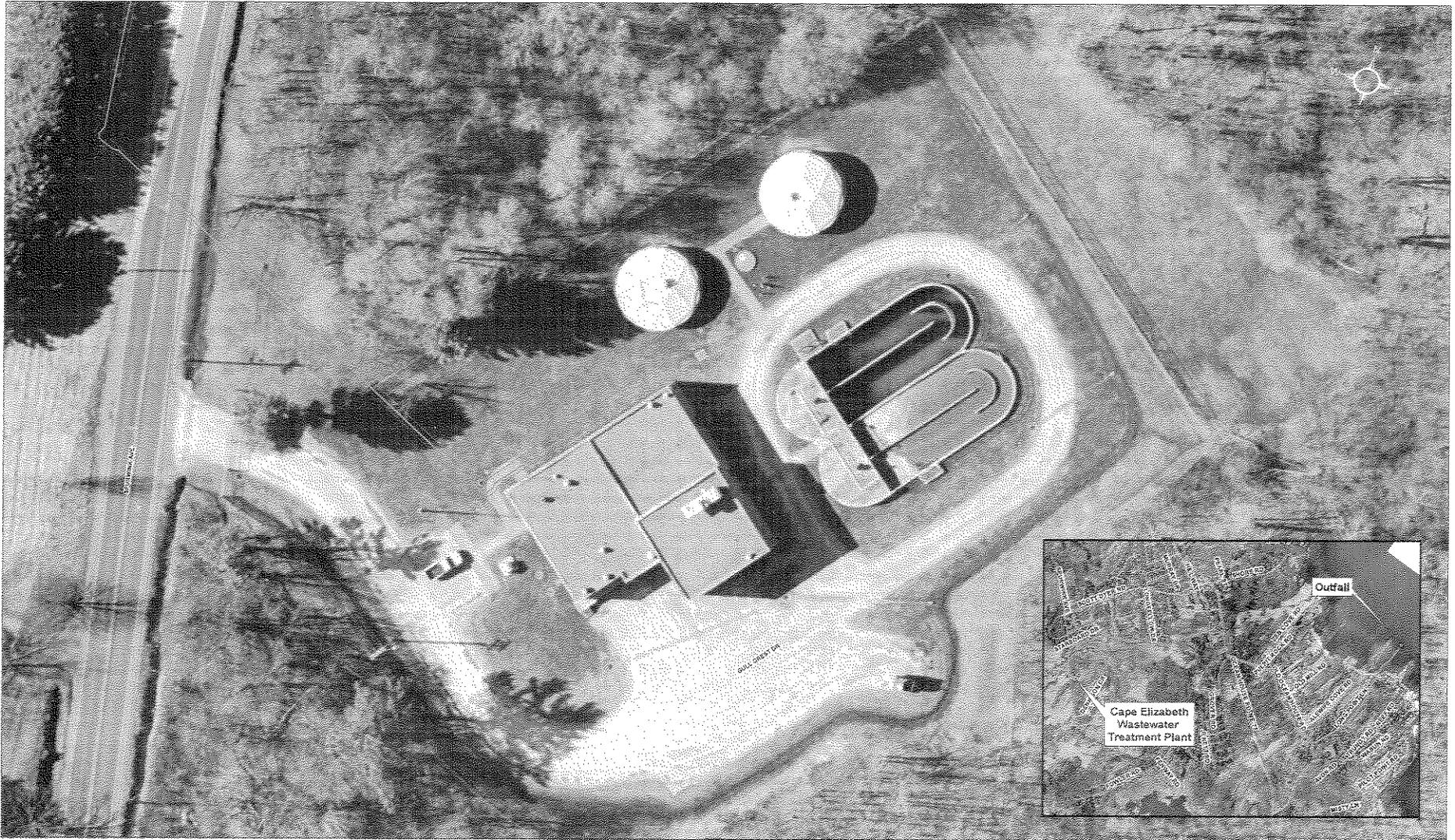
DMR: *The legal notice for the prohibited area surrounding the outfall is incorrectly identified. On the Fact Sheet, #7 Receiving Water quality (pg 5 of 14) the closure notice for this outfall is listed as #12. It is #13. Thus, shellfish harvesting area #12 (~~Spurwink River, Prouts Neck, Cape Elizabeth~~) # 13 Western Casco Bay Islands (Cape Elizabeth to Falmouth) is prohibited for the harvesting of shellfish.*

Department Response: The Department concurs and the corrections are reflected in the final permit.

Staff: Reduce seasonal monitoring frequency for pH from 1/Day to 5/Week based on the permittee's excellent compliance history and to simplify reporting.

Department Response: The Department concurs based on the permittee's compliance history and to maintain consistency with similar permits. The modification is reflected in the final permit.

ATTACHMENT A



1 inch = 20 feet



PORTLAND WATER DISTRICT
 225 Douglass Street
 Portland, ME 04104

Asset Management and Planning Dept.

Drawn By: JGH
 Date: 6/30/2011

Project Completion:
 Date:

Wastewater Treatment Plant

Cape Elizabeth

Aerial View

Sheet No. 1 of 2

ATTACHMENT B

ATTACHMENT C

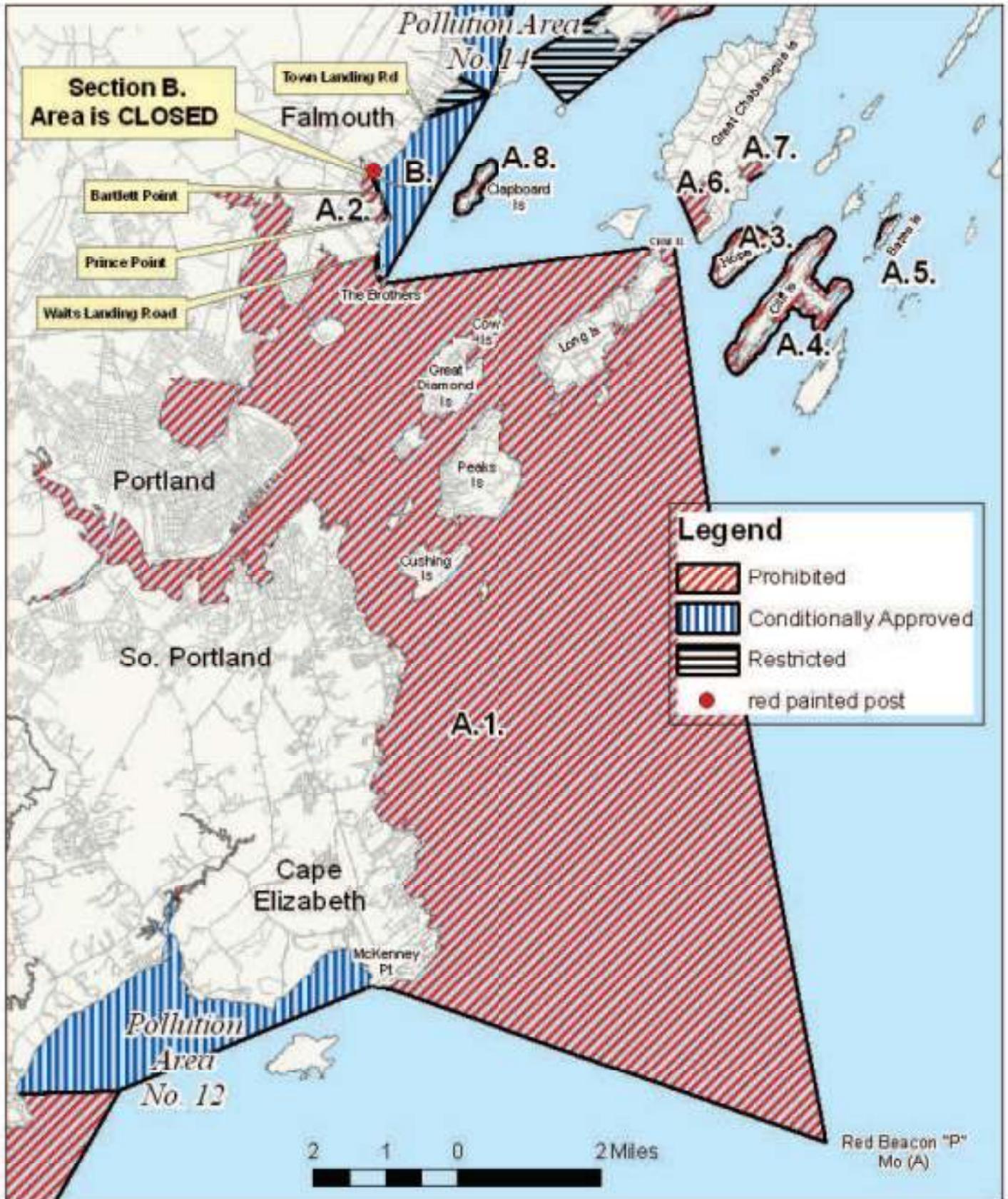


Maine Department of Marine Resources

Pollution Area No. 13, Western Casco Bay and Islands
(Cape Elizabeth to Falmouth)



4/13/11



ATTACHMENT D



Data Date Range: 21/Jul/2006-21/Jul/2011

Facility: CAPE ELIZABETH

Permit Number: ME0102121

Max (ug/l): 0.0154

Average (ug/l): 0.0054

Sample Date	Result (ug/l)	Lsthan	Clean
09/26/2006	0.002880	N	T
09/26/2006	0.002900	N	T
12/18/2006	0.007920	N	T
03/22/2007	0.004180	N	T
06/18/2007	0.007300	N	T
09/25/2007	0.012100	N	T
10/16/2007	0.004700	N	T
12/11/2007	0.015400	N	T
01/07/2008	0.008120	N	T
03/03/2008	0.013000	N	T
04/10/2008	0.010000	N	T
06/12/2008	0.014600	N	T
08/06/2008	0.007000	N	T
09/19/2008	0.005200	N	T
12/15/2008	0.002300	N	T
03/24/2009	0.005200	N	T
06/18/2009	0.001300	N	T
09/25/2009	0.004900	N	T
12/08/2009	0.001900	N	T
03/09/2010	0.003900	N	T
06/08/2010	0.003300	N	T
09/23/2010	0.002500	N	T
12/15/2010	0.003530	N	T
03/21/2011	0.003700	N	T

ATTACHMENT E

FACILITY WET EVALUATION REPORT



Facility: CAPE ELIZABETH

Permit Number: ME0102121

Report Date: 7/21/2011

Receiving Water: PEABBLES COVE

Rapidmix: ?

Dilution Factors: ~~1/4~~ Acute: 17.400

Acute: 17.400 Chronic: 74.80

Effluent Limits: Acute (%): ~~22.989~~
5.1%

Chronic (%): 1.337

Date range for Evaluation: From 21/Jul/2006 To: 21/Jul/2011

Test Type: A_NOEL

Test Species: MYSID SHRIMP

Test Date	Result (%)	Status
06/13/2007	100.000	OK
10/07/2009	62.200	RP OK
01/23/2011	100.000	OK

Species Summary:

Test Number: 3 RP: 3.000 Min Result (%): 62.200 RP factor (%): 20.733 Status: ~~RP~~ OK

Test Type: C_NOEL

Test Species: SEA URCHIN

Test Date	Result (%)	Status
06/13/2007	25.000	OK
10/07/2009	100.000	OK
01/23/2011	1.000	EXC Incorrect report entered
01/23/2011	50.000	OK

Species Summary:

Test Number: 4 RP: ~~2.600~~ 3.000 Min Result (%): ~~1.000~~ 25.000 RP factor (%): ~~0.385~~ 8.333 Status: ~~EXC~~ OK

ATTACHMENT F

PRIORITY POLLUTANT DATA SUMMARY



Date Range: 21/Jul/2006 - 21/Jul/2011

Facility Name: CAPE ELIZABETH

NPDES: ME0102121

Test Date	Monthly (Flow MGD)	Daily	Total Test Number	Test # By Group						Clean	Hg
				M	V	BN	P	O	A		
09/26/2006	0.18	0.17	138	19	28	46	25	9	11	F	0
12/17/2006	0.29	0.21	12	9	0	0	0	3	0	F	0
06/13/2007	0.25	0.33	16	9	0	0	0	7	0	F	0
10/07/2009	0.21	0.24	15	9	0	0	0	6	0	F	0
10/22/2010	0.24	0.23	11	9	0	0	0	2	0	F	0
01/23/2011	0.21	0.15	129	13	28	46	25	6	11	F	0
04/19/2011	0.18	0.16	11	9	0	0	0	2	0	F	0

Key:

A = Acid O = Others P = Pesticides
 BN = Base Neutral M = Metals V = Volatiles

ATTACHMENT G

CHAPTER 530(2)(D)(4) CERTIFICATION

MEPDES# _____ Facility Name _____

Since the effective date of your permit have there been:	NO	YES (Describe in Comments)
1. changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge?		
2. changes in the operation of the treatment works that may increase the toxicity of the discharge?		
3. changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge?		

COMMENTS:

Name(print) _____

Signature _____ Date _____

This document must be signed by the permittee or their legal representative.

This form may be used to meet the requirements of Chap 530(2)(D)(4). This Chapter requires all dischargers having waived or reduced Toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative the discharger may submit a signed letter containing the same information.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

A. GENERAL PROVISIONS

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

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

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

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

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

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

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

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

5. Bypasses.

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

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

6. Upsets.

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

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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.
