



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

January 27, 2014

Mr. Bradley Roland, P.E.
City of Portland
Portland Department of Public Services
55 Portland Street
Portland, ME 04101
brad@portlandmaine.gov

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0101435
Maine Waste Discharge License (WDL) Application #W008010-5T-F-R
Proposed Draft Permit

Dear Mr. Roland:

Enclosed is a **proposed draft** MEPDES permit and Maine WDL (permit hereinafter) which the Department proposes to issue as a final document after opportunity for your review and comment. By transmittal of this letter you are provided with an opportunity to comment on the proposed draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies, as required by our new regulations, and from any other parties who have notified the Department of their interest in this matter.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Friday, February 28, 2014**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

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

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679
(207) 764-0477 FAX: (207) 760-3143

If you have any questions regarding the matter, please feel free to call me at 592-7161.

Sincerely,



Cindy L. Dionne
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Stuart Rose, DEP/SMRO
Lori Mitchell, DEP/CMRO
Barry Mower, DEP/CMRO
Pamela Parker, DEP/CMRO
Dave Breau, DEP/CMRO
John True, DEP/CMRO
Susanne Meidel, DEP/CMRO
Brian Pitt, EPA
Alex Rosenberg, EPA
David Pincumbe, EPA
Olga Vergara, EPA
Ivy Frignoca, CLF
Kathleen Leyden, DACF
Environmental Review, DIFW
Environmental Review, DMR



DEPARTMENT ORDER

IN THE MATTER OF

CITY OF PORTLAND)	MAINE POLLUTANT DISCHARGE
PORTLAND, CUMBERLAND COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
COMBINED SEWER OVERFLOWS)	AND
#ME0101435)	WASTE DISCHARGE LICENSE
#W008010-5T-F-R)	RENEWAL
APPROVAL)	

In compliance with the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the CITY OF PORTLAND (City), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On September 20, 2013, the Department accepted as complete for processing, a renewal application from the City for Waste Discharge License (WDL) #W008010-5T-D-R/Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0101435, which was issued on October 24, 2008 for a five year term. The 10/24/08 MEPDES permit authorized the City to discharge an unspecified quantity of untreated sanitary wastewaters from Combined Sewer Overflow (CSO) Outfalls 006, 013, 014, 017, 018 and 019 to Back Cove; from CSO Outfalls 024 and 026 to Portland Harbor; from CSO Outfall 039 to Nasons Brook; and from CSO Outfalls 036, 042 and 043 to Capisic Brook for a total of twelve CSOs. CSO Outfall #036 (Capisic Pond Dam) was permanently closed during the term of the 2008 permit.

The Department issued a minor permit revision on May 5, 2011 to incorporate Special Conditions regarding compliance with the 2010 Clean Water State Revolving Fund (CWSRF) Requirements (Asset Management Principal Forgiveness).

PERMIT SUMMARY

This permitting action carries forward the authorization to discharge untreated sanitary and storm related wastewater during wet weather events from the eleven CSOs. Special Condition A(4) of the permit establishes a schedule the City must adhere to, to mitigate or eliminate discharges from the CSOs during the term of this permit. Special Condition A also requires the City to submit an annual *CSO Activity and Volumes* report, conduct block testing or flow monitoring of all CSOs, submit an annual *CSO Progress Report*, and submit an annual report of work done on the Nine Minimum Controls.

CONCLUSIONS

Based on the findings summarized in the attached **PROPOSED DRAFT** Fact Sheet dated January 27, 2014, and subject to the Conditions listed below, the Department makes the following **CONCLUSIONS**:

CONCLUSIONS (cont'd)

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
 - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

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ACTION

Based on the findings and conclusions as stated above, the Department APPROVES the above noted application of the CITY OF PORTLAND to discharge an unspecified quantity of untreated sanitary wastewater and storm water during wet weather events via CSOs 006, 013, 014, 017, 018 and 019 to Back Cove, Class SC; from CSOs 024 and 026 to Portland Harbor, Class SC; from CSO 039 to the Nasons Brook, Class C; and from CSOs 042 and 043 to Capisic Brook, Class C in Portland, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit 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) (amended August 25, 2013)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS _____ DAY OF _____ 2014.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____

For PATRICIA W. AHO, Commissioner

Date filed with Board of Environmental Protection _____

Date of initial receipt of application: September 19, 2013

Date of application acceptance: September 20, 2013

This Order prepared by Cindy L. Dionne, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOWS (CSOs)

1. Pursuant to *Combined Sewer Overflow Abatement*, 06-096 Chapter 570 (effective February 5, 2000), the permittee is authorized to discharge from the following CSOs (storm water and sanitary wastewater) subject to the conditions and requirements herein.

Regulator Location (RL)	RL #	Owner	Outfall #	Owner	CSO Outfall Location	Receiving Water & Class ()
Front @ Johansen Street	6	City	006	City	Front @ Johansen Street	Back Cove (SC)
Belmont Street	13A	City	013	City	Baxter Blvd. near Belmont St.	Back Cove (SC)
Forest Ave. @ Ashmont St.	13B	City				
Ashmont St. @ Forest Ave.	13C	City				
Forest Ave. @ Coyles Gulley (GLB ¹)	14	City	014	City	Baxter Blvd. near Belmont St.	Back Cove (SC)
Forest Ave. @ Dartmouth St.	15A	City	015	PWD	Baxter Blvd. @ Dartmouth St.	Back Cove (SC)
Dartmouth Ave. @ Baxter Blvd.	15B	PWD				
Forest Ave. @ Bedford St.	16A	City	016	PWD	Baxter Blvd. @ near Preble St.	Back Cove (SC)
Bank St.	16B	PWD				
Preble St. @ Marginal way	17	City	017	City	Preble St.	Back Cove (SC)
Franklin Art. @ Marginal Way	18	City	018	City	I-295 exit near Franklin Arterial	Back Cove (SC)
Diamond @ MW (Fox @ Anderson) ²	19	City	019	City	I-295 exit near Diamond St.	Back Cove (SC)
Franklin Art. @ Fore St.	24A	City	024	City	Commercial St. at Franklin St.	Portland Harbor (SC)
Franklin Art. @ Middle St.	24B	City				
Maple St. @ Commercial St.	26	City	026	City	Commercial St. near Maple St.	Portland Harbor (SC)
Rowe St. (Hillcrest)	39	City	039	City	Rowe St.	Nasons Brook (C)
Warren Avenue 60"	42	City	042	City	Warren Ave. near Newcombe St.	Capisic Brook (C)
Warren Avenue 24"	43	City	043	City	Warren Ave. near Newcombe St.	Capisic Brook (C)

¹ Located in front of Great Lost Bear (GLB) restaurant (540 Forest Avenue)

² Diamond @Marginal Way (Fox @ Anderson)

City owned and maintained Regulators #15A and #16A discharge through Outfalls #015 (PWD #019) and #016 (PWD #021) respectively. Outfalls #015 (PWD #019) and #016 (PWD #021) are permitted by the Department to the Portland Water District (PWD). Regulators #15B and #16 B are owned and maintained by the PWD.

SPECIAL CONDITIONS

A. CONDITIONS FOR CSOs (cont'd)

2. Prohibited Discharges

- a) The discharge of dry weather flows is prohibited. All such discharges must be reported to the Department in accordance with Standard Condition D (1) of this permit.
- b) No discharge must occur as a result of mechanical failure, improper design or inadequate operation or maintenance.
- c) No discharges must occur at flow rates below the maximum design capacity of the wastewater treatment facility, pumping stations or sewerage system.

3. Narrative Effluent Limitations

- a) The permittee must not discharge wastewater that contains a visible oil sheen, settled substances, foam, or floating solids at any time that impair the characteristics and designated uses ascribed to the classification of the receiving waters.
- b) The permittee must not discharge wastewater that contains materials in concentrations or combinations that are hazardous or toxic to aquatic life; or which would impair the usage designated by the classification of the receiving waters.
- c) The permittee must not discharge wastewater that causes visible discoloration or turbidity in the receiving waters that causes those waters to be unsuitable for the designated uses and characteristics ascribed to their class.
- d) The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification.

4. CSO Master Plan [see 06-096 CMR 570(2) and (3)]

The permittee must implement CSO control projects in accordance with an approved CSO Master Plan and abatement schedule. The CSO Master Plan entitled Combined Sewer Overflow Abatement Study Master Plan-City of Portland, Maine, dated December 1993 (revised in January 1997) and the abatement project schedule was approved on June 25, 1997. The abatement schedule was modified in the document entitled *City of Portland – Request to Modify the CSO Master Plan Schedule*, dated April 8, 2008 and was approved on April 15, 2008. An update to the Master Plan entitled *Combined Sewer Overflow Long Term Control Plan, Tier III* with abatement schedule was reviewed and subsequently approved on April 19, 2013. Based on the approved update, the permittee must comply with the following abatement schedule dates:

On or before December 31, 2015, [ICIS Code 73905], the permittee shall complete the design for the 3.5 million gallon storage conduit project identified as Back Cove (South).

SPECIAL CONDITIONS

A. CONDITIONS FOR CSOs (cont'd)

On or before June 30, 2016, the permittee shall start construction of the 3.5 million gallon storage conduit project identified as Back Cove (South).

On or before September 30, 2017, [ICIS Code 73905], the permittee shall complete the design for the 3.5 million gallon storage conduit project identified as Back Cove (West).

On or before December 31, 2017, the permittee shall begin construction of the 3.5 million gallon storage conduit project identified as Back Cove (West).

On or before April 1, 2014, the permittee shall identify \$2.5 million in green or other separation projects which will have construction initiated during 2014 and completed no later than December 31, 2015.

On or before December 31, 2014, the permittee shall identify \$7.5 million in green or other separation projects which will start construction in 2015 and be completed no later than June 30, 2016.

On or before December 31, 2017, the permittee shall identify \$7.5 million in green or other separation projects which will start construction in 2019 and be completed no later than September 30, 2020.

On or before June 30, 2018, the permittee shall complete construction of the 3.5 million gallon storage conduit project identified as Back Cove (South).

On or before January 1, 2018, the permittee shall submit a Scope of Work for the Master Plan update due on or before December 31, 2018.

5. Nine Minimum Controls (NMC) [see 06-096 CMR 570(5)]

The permittee must implement and follow the Nine Minimum Control documentation as approved by USEPA on May 29, 1997. Work performed on the Nine Minimum Controls during the year must be included in the annual *CSO Progress Report* (see below).

6. CSO Compliance Monitoring Program [see 06-096 CMR 570(6)]

The permittee must conduct block testing or flow monitoring according to an approved *Compliance Monitoring Program* on all CSO points, as part of the CSO Master Plan. Annual flow volumes for all CSO locations must be determined by actual flow monitoring, or by estimation using a model such as USEPA's Storm Water Management Model (SWMM).

Results must be submitted annually as part of the annual *CSO Progress Report* (see below), and must include annual precipitation, CSO volumes (actual or estimated) and any block test data required. Any abnormalities during CSO monitoring must also be reported. The results must be reported on the Department form "CSO Activity and Volumes" (**Attachment A** of this permit) or similar format and submitted electronically to the Department.

SPECIAL CONDITIONS

A. CONDITIONS FOR CSOs (cont'd)

CSO control projects that have been completed must be monitored for volume and frequency of overflow to determine the effectiveness of the project toward CSO abatement. This requirement must not apply to those areas where complete separation has been completed and CSO outfalls have been eliminated.

7. Addition of New Wastewater [see 06-096 CMR 570(8)]

06-096 CMR 570(8) lists requirements relating to any proposed addition of wastewater to the combined sewer system. Documentation of the new wastewater additions to the system and associated mitigating measures must be included in the annual *CSO Progress Report* (see below). Reports must contain the volumes and characteristics of the wastewater added or authorized for addition and descriptions of the sewer system improvements and estimated effectiveness.

8. Annual CSO Progress Reports [see 06-096 CMR 570(7)]

By March 1 of each year the permittee must submit *CSO Progress Reports* covering the previous calendar year (January 1 to December 31). The CSO Progress Report must include, but is not necessarily limited to, the following topics as further described in 06-096 CMR 570: CSO abatement projects, schedule comparison, progress on inflow sources, costs, flow monitoring results, CSO activity and volumes, nine minimum controls update, sewer extensions, and new commercial or industrial flows.

The CSO Progress Reports must be completed on a standard form entitled “Annual CSO Progress Report”, furnished by the Department, and submitted in electronic form, if possible, to the following address:

CSO Coordinator
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management, Compliance and Technical Assistance
17 State House Station
Augusta, Maine 04333
e-mail: CSOCoordinator@maine.gov

9. Signs

If not already installed, the permittee must install and maintain an identification sign at each CSO location as notification to the public that intermittent discharges of untreated sanitary wastewater occur. The sign must be located at or near the outfall and be easily readable by the public. The sign must be a minimum of 12" x 18" in size with white lettering against a green background and

SPECIAL CONDITIONS

A. CONDITIONS FOR CSOs (cont'd)

must contain the following information:

**CITY OF PORTLAND
WET WEATHER
SEWAGE DISCHARGE
CSO # AND NAME**

10. Definitions

For the purposes of this permitting action, the following terms are defined as follows:

- a. Combined Sewer Overflow - a discharge of excess waste water from a municipal or quasi-municipal sewerage system that conveys both sanitary wastes and storm water in a single pipe system and that is in direct response to a storm event or snowmelt.
- b. Dry Weather Flows - flow in a sewerage system that occurs as a result of non-storm events or are caused solely by ground water infiltration.
- c. Wet Weather Flows - flow in a sewerage system that occurs as a direct result of a storm event, or snowmelt in combination with dry weather flows.

B. ASSET MANAGEMENT PROGRAM (AMP)

The permittee must maintain an 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 must be reviewed and updated as necessary at least annually. The AMP must be kept on-site at the permittee's office and made available to Department staff for review during normal business hours.

On May 14, 2012, the permittee submitted a complete and timely certification form to the Department for the implementation of a CWSRF AMP in accordance with the Department guidance document DEPLW1190-2010.

C. REPAIR AND REPLACEMENT RESERVE ACCOUNT

Annually, on or before August 1, 2014 and lasting through August 1, 2016, the permittee must fund a Repair and Replacement Reserve Account in accordance with Department guidance DEPLW1190-2010, referenced above, in the amount recommended in the permittee's Asset Management Plan or at a minimum of 2% of the permittee's total yearly wastewater operation and maintenance budget each year.

Annually, on or before August 1, 2014 and lasting through August 1, 2016 [ICIS Code 59499], the permittee must submit a certification to the Department indicating a Repair and Replacement Reserve Account has been fully funded as required above. See **Attachment B** of this permit for a

C. REPAIR AND REPLACEMENT RESERVE ACCOUNT

copy of the certification form. The permittee must 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, a description of how the funds were used.

D. AUTHORIZED DISCHARGES

The permittee is authorized to discharge untreated sanitary wastewater and storm water during wet weather events only in accordance with the terms and conditions of this permit and only from Outfalls 006, 013, 014, 017, 018, 019, 024, 026, 039, 042, and 043. Discharges of wastewater from any other point source(s) are not authorized under this permit, and must be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

E. REOPENING OF PERMIT FOR MODIFICATION

In accordance with 38 M.R.S.A. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

F. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit must remain in full force and effect, and must 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
CSO ACTIVITY AND VOLUMES**

MUNICIPALITY OR DISTRICT		PRECIP. DATA		FLOW DATA (GALLONS PER DAY) OR BLOCK ACTIVITY ("1")													
REPORTING YEAR		TOTAL INCHES	MAX. HR. INCHES	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	EVENT OVERFLOW GALLONS	EVENT DURATION HRS
CSO EVENT NO.	START DATE OF STORM																
1																	
2																	
3																	
4																	
5																	
6																	
7																	
8																	
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23																	
24																	
25																	
TOTALS																	

Note 1: Flow data should be listed as gallons per day. Storms lasting more than one day should show total flow for each day.

Note 2: Block activity should be shown as a "1" if the block floated away.

ATTACHMENT B

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
MAINE WASTE DISCHARGE LICENSE**

**PROPOSED DRAFT
FACT SHEET**

DATE: **JANUARY 27, 2014**

PERMIT NUMBER: **#ME0101435**

WASTE DISCHARGE LICENSE: **#W008010-5T-F-R**

NAME AND ADDRESS OF APPLICANT:
**CITY OF PORTLAND
PORTLAND PUBLIC SERVICES
55 PORTLAND STREET
PORTLAND, MAINE 04101**

COUNTY: **CUMBERLAND**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):
**VARIOUS LOCATIONS LISTED ON PAGE 7
PORTLAND, MAINE 04101**

RECEIVING WATER CLASSIFICATION: **BACK COVE/CLASS SC
PORTLAND HARBOR/CLASS SC
CAPISIC BROOK/CLASS C
NASONS BROOK/CLASS C**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**MR. BRADLEY A. ROLAND, P.E.
207-874-8846
brad@portlandmaine.gov**

1. APPLICATION SUMMARY

- a. Application: On September 20, 2013, the Department accepted as complete for processing, a renewal application for Waste Discharge License (WDL) #W008010-5T-D-R/Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0101435, which was issued on October 24, 2008 for a five year term. The 10/24/08 MEPDES permit authorized the City to discharge an unspecified quantity of untreated sanitary wastewaters from Combined Sewer Overflow (CSO) Outfalls 006, 013, 014, 017, 018 and 019 to Back Cove; from CSO Outfalls 024 and 026 to Portland Harbor; from CSO Outfall 039

1. APPLICATION SUMMARY (cont'd)

to Nasons Brook; and from CSO Outfalls 036, 042 and 043 to Capisic Brook for a total of twelve CSOs. Since the 2008 permit, CSO Outfall #036 (Capisic Pond Dam) has been permanently closed.

The Department issued a minor permit revision on May 5, 2011 to incorporate Special Conditions regarding compliance with the 2010 Clean Water State Revolving Fund (CWSRF) Requirements (Asset Management Principal Forgiveness).

2. PERMIT SUMMARY

This permitting action carries forward the authorization to discharge untreated sanitary and storm related wastewater during wet weather events from the eleven CSOs. Special Condition A(4) of the permit establishes a schedule the City must adhere to, to mitigate or eliminate discharges from the CSOs during the term of this permit. Special Condition A also requires the City to submit an annual *CSO Activity and Volumes* report, conduct block testing or flow monitoring of all CSOs, submit an annual *CSO Progress Report*, and submit an annual report of work done on the Nine Minimum Controls.

a. History: The most current relevant regulatory actions include:

January 1991 – The City and the Portland Water District (District) entered into an Administrative Consent Agreement and Enforcement order with the Maine Board of Environmental Protection because of the CSO discharges and the fact that the City did not have a current WDL for its CSOs. The Consent Agreement set forth deadlines for the development and implementation of a long term program for the evaluation and abatement of both the City and District CSO discharges. The City was also required to submit a WDL application to the Department.

February 1991 – The City submitted an application for a WDL for its CSO discharges.

December 1993 – The City and the District submitted a *CSO Abatement Master Plan* prepared by CH2M-Hill. Approval for this plan was withheld pending more detailed project descriptions as well as design and construction schedules for the first two or three years of implementation.

January 1997 – A *Five Year CSO Abatement Plan and Schedule* for the years 1997 through 2001, prepared by Deluca-Hoffman Associates, Inc., was submitted to the Department. This plan, along with the original 1993 CSO Master Plan, was approved by both the U.S. Environmental Protection Agency (USEPA) and the Department on June 25, 1997.

July 3, 1997 – The District, on behalf of the City, submitted the *Portland 1997 CSO Monitoring Plan* which was approved by the Department.

September 29, 1997 – The Department issued Order #W008010-68-B-N/#ME0101435 certifying that the discharge proposed in a pending National Pollutant Discharge Elimination System (NPDES) permit was in compliance with applicable sections of the Federal Water Pollution Control Act.

September 30, 1997 – The USEPA issued the NPDES permit #ME0101435 which expired on March 31, 2002.

2. PERMIT SUMMARY (cont'd)

October 7, 1997 – The Department issued Waste Discharge License #W008010-58-A-R authorizing the discharge of combined storm water and untreated sanitary waste water from 13 CSOs.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permitting program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program, and MEPDES permit #ME0101435 has been utilized for this facility. On March 26, 2011, the USEPA authorized the Department to administer the MEPDES program in Indian territories of the Penobscot Nation and Passamaquoddy Tribe.

February 10, 2003 – The Department approved the *City of Portland Tier II Combined Sewer Overflow Abatement 8-Year Implementation Plan*, dated February 5, 2003.

July 7, 2003 – The Department issued combination MEPDES permit #ME0101435/WDL #W008010-5T-C-R for a five-year term.

July 3, 2008 – The City submitted a complete application to the Department to renew the MEPDES permit/WDL for the discharge from 12 CSOs.

October 24, 2008 – The Department issued combination MEPDES permit #ME0101435/WDL #W008010-5T-D-R for a five year term.

May 4, 2011 – The City submitted an application to modify the 10/24/08 permit to incorporate Special Conditions regarding compliance with the 2010 Clean Water State Revolving Fund (CWSRF) Requirements (Asset Management Principal Forgiveness).

May 5, 2011 – The Department issued a minor revision to the 10/24/08 permit to include conditions regarding the CWSRF requirements.

June 20, 2011 – The City submitted a timely and complete Wastewater Facility Energy Audit as required in Special Condition G of the May 5, 2001 permit.

July 2011 – The City and Portland Water District submitted a final draft CSO Long Term Control Plan update with abatement schedule prepared by CDM Smith and covering a fifteen year period with an estimated cost of \$170 million dollars. The plan was reviewed; comments made and final plan resubmitted January 25, 2013. Approval was granted by the Department on April 19, 2013.

September 19, 2013 – The City submitted a timely and complete General Application to the Department for renewal of the October 24, 2008 MEPDES permit. The application was accepted for processing on September 20, 2013, and was assigned WDL #W008010-5T-F-R / MEPDES #ME0101435.

2. PERMIT SUMMARY (cont'd)

- b. Source Description: During wet weather events caused by precipitation, snow melt, inflow and infiltration (I & I) into the collection system from roof drains, cellar drains, combined storm sewers, and/or leaking collection systems, the flow in the sewer system may be greater than what the treatment plant can handle and therefore water may back up in the sewer lines causing the activation of CSOs. Also the wet weather flows may exceed the capacity of certain sewer lines and therefore cause CSO activation. The City has a total of 31 CSOs, 20 of which are owned and maintained by the Portland Water District (District). CSOs not covered in this permitting action are addressed in other Department permitting actions.

In December 1993, CH2M-Hill of Boston, Massachusetts, submitted a *Combined Sewer Overflow Abatement Study Master Plan (CSO Master Plan)* to the Department on behalf of the City. The CSO Master Plan contained a 15-year implementation schedule for the abatement of CSO activity associated with 39 CSOs discharging to 6 receiving waters. The *CSO Master Plan* sought to eliminate 33 out of 39 CSOs, reduce the annual CSO volume from 720 million gallons (MG) to 87 MG based on the 1966 precipitation record and eliminate the discharge of CSOs to sensitive receiving waters which include Capisic Brook, the Presumpscot River Estuary and the Fore River. In January 1997, DeLuca-Hoffman Associates, Inc. of South Portland, Maine submitted a *Five Year CSO Abatement Plan and Schedule* to the Department on behalf of the City. The *Five Year CSO Abatement Plan and Schedule* identified 43 projects (12 flood control projects and 31 CSO abatement projects) and provided a detailed plan of project scheduling and cost budgeting for the 5-year period of 1997-2001. The flood control projects are classified as prerequisite work to CSO abatement projects and typically take the form of culvert enlargements, channel improvements and storm water management facilities. These flood control projects do not generally reduce CSO activity; however the CSO abatement projects cannot be performed until the flood control projects are implemented.

At the adoption of the *CSO Master Plan* in 1993, the City had 42 CSO outfalls of which 39 were classified as active. The City now has 31 CSO's, 20 of which are owned and maintained by the Portland Water District and the other 11 are owned and maintained by the City of Portland.

The applicant's renewal application states "In the past 5 years the City of Portland has been completing the CSO projects as proposed in its Tier II CSO Master Plan. As of 9/18/13 all but one project remains to be completed. The Baxter Boulevard North Storage Conduit will be complete by December 31, 2013. All other projects have been completed. As a result from the Tier II projects CSO #36 (Capisic Pond Dam) has been permanently closed."

Tables A1 and A2 on pages 5 and 6, respectively, list all the CSO regulator locations and CSO locations in Portland, Maine. Table B on page 7 lists the CSO regulator locations and CSOs owned and maintained by the City of Portland.

Attachment A of this Fact Sheet is a map prepared by the City showing the locations of the CSOs.

2. PERMIT SUMMARY (cont'd)

Table A1 City of Portland and Portland Water District CSOs

Regulator location (RL)	RL #	Owner	Outfall #	PWD Outfall # ()	Owner	Receiving Water	Year Closed
Veranda St.	1A	PWD	001	(027)	PWD	Casco Bay	2001
Olympia St.	1B	PWD					
Arcadia St.	2	PWD	002	(022)	PWD	Presumpscot Est.	
Berwick St.	3	PWD	003	(023)	PWD	Casco bay	2001
Tukey's Bridge Syphon	4	PWD	004	(026)	PWD	Casco bay	
Randal St.	5	PWD	005	(010)	PWD	Back cove	
Front @ Johansen St.	6	City	006	---	City	Back Cove	
Ocean Ave.	7	PWD	007	(011)	PWD	Back Cove	
Clifton St.	8	PWD	008	(020)	PWD	Back Cove	
George St.	9	PWD	009	(012)	PWD	Back Cove	
Austin St.	10A	PWD	010	(014)	PWD	Back Cove	
Mackworth St.	10B	PWD					
Parsons St.	10C	PWD					
Chenery St.	11A	PWD	011	(017)	PWD	Back Cove	
Codman St.	11B	PWD					
Vannah Ave.	12	PWD	012	(018)	PWD	Back Cove	
Belmont St.	13A	City	013	---	City	Back Cove	
Forest Ave. @ Ashmont St.	13B	City					
Ashmont St. @ Forest Ave.	13C	City					
Forest Ave. @ Coyles Gully	14	City	014	---	City	Back Cove	
Forest Ave. @ Dartmouth St.	15A	City	015	(019)	PWD	Back Cove	
Dartmouth Ave. @ Baxter Blvd.	15B	PWD					
Forest Ave. @ Bedford St.	16A	City	016	(021)	PWD	Back Cove	
Bank St.	16B	PWD					
Preble St. @ Marginal Way (M W)	17	City	017	---	City	Back Cove	
Franklin Arterial @ M W	18	City	018	---	City	Back Cove	
Diamond @ M W (Fox @ Anderson)	19	City	019	---	City	Back Cove	
Northeast P.S.	20	PWD	020	(024)	PWD	Casco bay	

*The estimated annual flow based on the storm water management model (SWMM)

PWD – Portland Water District – All shaded areas are facilities owned and maintained by the Portland Water district.

Closed CSOs – All facility descriptions with lines drawn through them are closed CSOs

2. PERMIT SUMMARY (cont'd)

Table A2 City of Portland and Portland Water District CSOs (cont'd)

Regulator Location (RL)	RL #.	Owner	Outfall #	PWD Outfall # ()	Owner	Receiving Water	Year Closed
Quebec St.	21	PWD	021	(002)	PWD		1995
Sewage treatment plant	22		022	---			NA
India St.	23	PWD	023	(003)	PWD	Portland Harbor	
Franklin Arterial @ Fore St.	24A	City	024	---	City	Portland Harbor	
Franklin Arterial @ Middlee St.	24B	City		---			
Long wharf	25	PWD	025	(004)	PWD	Portland Harbor	
Maple St. @ Commercial St.	26	City	026	---	City	Portland Harbor	
Clark St.	27	PWD	027	(005)	PWD	Portland Harbor	
Emery st.	28	PWD	028	(006)	PWD	Portland Harbor	
West Commercial St.	29	PWD	029	(007)	PWD	Fore River	
St. John St.	30	PWD	030	(008)	PWD	Fore River	
Congres St. @ Sewall St.	31	PWD	031	---	PWD	Fore River	1993
Thompson Pt. P.S.	32	PWD	032	(028)	PWD	Fore River	
Fore River P.S.	33	PWD	033	(009)	PWD	Fore River	
Brewer St.	34	PWD	034	(025)	PWD	Fore River	
Stroudwater Road	35A	PWD	035	(029)	PWD	Fore River	
Capisic Pond Dam Overflow	36	City	036	---	City	Capisic Brook	12/21/10
Mayer road	37	City	037	---	City	Capisic Brook	1993
Brighton Ave. @ Capisic St.	38	City	038	---	City	Capisic Brook	1998
Rowe St. (Hillcrest)	39	City	039	---	City	Nasons Brook	
Sagamore Village Overflow	40	City	040	---	City	Capisic Brook	1993
Holm Ave.	41	City	041	---	City	Capisic Brook	1996
Warren Ave. 60"	42	City	042	---	City	Capisic Brook	
Warren Ave. 24"	43	City	043	---	City	Capisic Brook	

*The estimated annual flow based on the storm water management model (SWMM)

PWD – Portland Water District – All shaded areas are facilities owned and maintained by the Portland Water district.

Closed CSOs – All facility descriptions with lines drawn through them are closed CSOs

2. PERMIT SUMMARY (cont'd)

Table B City of Portland CSOs

Regulator Location (RL)	RL #	Owner	Outfall #	Owner	Outfall Location	Outfall Pipe dia. unless specified	Flap Gate	Receiving Water & Class ()
Front @ Johansen	6	City	006	City	Front @ Johansen Street	48"	No	Back Cove (SC)
Belmont Street	13A	City	013	City	Baxter Blvd. near Belmont St.	36"	No	Back Cove (SC)
Forest Ave. @ Ashmont St.	13B	City						
Ashmont St. @ Forest Ave.	13C	City						
Forest Ave. @ Coyles Gulley (GLB)	14	City	014	City	Baxter Blvd. near Belmont St.	30"	No	Back Cove (SC)
Preble St. @ Marginal Way (M W)	17	City	017	City	Preble St.	2 – 60"	Yes	Back Cove (SC)
Franklin Art. @ M W	18	City	018	City	I-295 exit near Franklin Arterial	72"	Yes	Back Cove (SC)
Diamond @ M W (Fox @ Anderson)	19	City	019	City	I-295 exit near Diamond St.	66"	Yes	Back Cove (SC)
Franklin Art. @ Fore St.	24A	City	024	City	Commercial St. at Franklin St.	54"	No	Portland Harbor (SC)
Franklin Art. @ Middle St.	24B	City						
Maple St. @ Commercial St.	26	City	026	City	Commercial St. near Maple St.	24"	No	Portland Harbor (SC)
Rowe St. (Hillcrest)	39	City	039	City	Rowe St.	30"	No	Nasons Brook (C)
Warren Avenue 60"	42	City	042	City	Warren Ave. near Newcombe St.	60"	No	Capisic Brook (C)
Warren Avenue 24"	43	City	043	City	Warren Ave. near Newcombe St.	24"	No	Capisic Brook (C)

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A. § 420 and 06-096 CMR 530 require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (last amended July 29, 2012), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classifications of minor drainages, 38 M.R.S.A., § 468(1)(B)(1) classifies Capisic Brook and Nasons Brook at the point of discharge as Class C water ways. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465 (4) describes the standards for Class C.

Classifications of estuarine and marine waters, 38 M.R.S.A. § 469(1)(E)(2), classifies Back Cove and Portland Harbor as SC waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A. § 465-B(3) describes the standards for Class SC waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report (Report), prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the following:

Both Nasons Brook and Capisic Brook are listed under Category 5-A: Rivers and Streams Impaired by Pollutants Other Than Those Listed in 5-B Through 5-D (TMDL Required) for Benthic-Macroinvertebrate Bioassessments. Capisic Brook was also listed in the same Category for Habitat Assessment. Capisic Brook was also listed under Category 5-A for Wetland Habitat Impairment.

Both Capisic and Nasons Brook are tributaries to Fore River. The Fore River Estuary is listed under Category 4-A: Estuarine and Marine Waters with Impaired Used, TMDL Completed for elevated fecals. The Fore River Estuary is also listed under Category 5-A: Estuarine and Marine Waters Impaired by Pollutants Other Than Those Listed in 5-B Through 5-D (TMDL Required) caused by municipal point source, CSOs, storm water, hazardous waste sites, and nonpoint sources (spills of all sizes).

The estuarine and marine waters of Portland's Back Cove and Portland Harbor are listed as, "Category 5-D: Legacy Pollutants" for legacy pollutants in lobster tomalley and "Category 4-A: Estuarine and Marine Waters with Impaired Use, TMDL Completed." The Report states that bacteria may impair either recreational uses (swimming) or shellfish consumption uses, or both. Shellfish consumption impairments only apply to waters naturally capable of supporting the shellfish-harvesting use (*i.e.*, waters of high enough salinity for propagation of shellfish.) On September 28, 2009, the USEPA approved the Department's Maine Statewide Bacteria TMDL (Total Maximum Daily Loads), dated August 2009, for fresh, marine and estuarine waters impaired by bacteria.

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The Report lists all of Maine's fresh waters as, "Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury." Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "All freshwaters are listed in Category 4A (TMDL Completed) due to USEPA approval of a Regional Mercury TMDL. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Health and Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources."

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

No effluent limitations have been established in this permitting action for the CSO discharges. Best practicable treatment (BPT) of CSO discharges includes control through best management practices and abatement of the discharge as specified in Chapter 570 of Department Rules (Combined Sewer Overflow). The permittee is required to measure and report annually CSO flow volumes and CSO discharge events.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

The CSO discharge of untreated sewage has a negative impact on the water quality of the receiving waters, however the CSO Master Plan includes projects and management strategies to eliminate CSO discharges. (See Special Condition A(4) of this permit.)

The Department acknowledges that total elimination of the CSOs is a costly long term project. With continued implementation of the Nine Minimum Control measures and the continued implementation of the CSO Master Plan and associated best management practices, the Department anticipates a reduction in CSO events and an improvement in water quality. Therefore, 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 water body to meet standards for Class C and Class SC classifications.

8. PUBLIC COMMENTS

Public notice of this application was made in the *Portland Press Herald* newspaper on or about September 22, 2013. 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 must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

9. RESPONSE TO COMMENTS

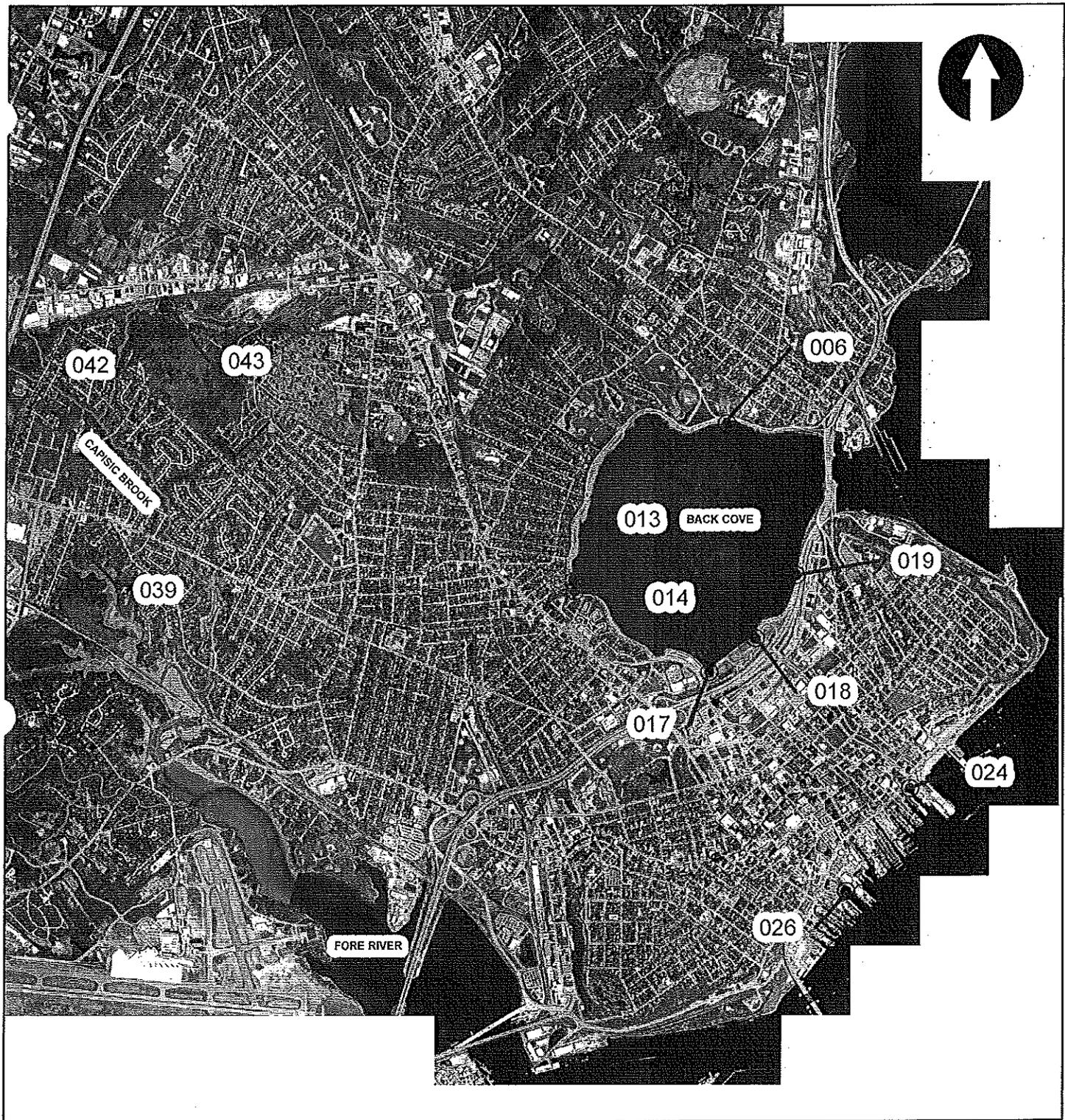
Reserved until the end of the public comment period.

10. DEPARTMENT CONTACTS

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

Cindy L. Dionne
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 592-7161
e-mail: cindy.l.dionne@maine.gov

ATTACHMENT A



CITY OF PORTLAND CSO LOCATIONS PORTLAND, MAINE

