STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

October 18, 2007

Mr. Adam Adriance
Penobscot McCrum LLC
P.O. Box 229
Belfast, Maine 04915

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023043
Maine Waste Discharge License (WDL) Application # W-004897-5O-E-R
Final Permit/License

Dear Mr. Adriance:

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

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

The Department would like to make you aware that your monthly Discharge Monitoring Report (DMR) forms may not reflect the revisions in this permitting action for several months after permit issuance, however, you are required to report applicable test results for parameters required by this permitting action that do not appear on the DMR. Please see the attached April 2003 O&M Newsletter article regarding this matter.

If you have any questions regarding the matter, please feel free to call me at (207) 287-6114 or contact me via email at Robert.D.Stratton@maine.gov.

Sincerely,

Robert D. Stratton
Division of Water Quality Management
Bureau of Land and Water Quality

Enc./cc: Denise Behr (MEDEP); Sandy Lao (USEPA);
Jay McCrum (PM LLC)

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
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 04769-2094
(207) 764-0477 FAX: (207) 760-3143

web site: www.maine.gov/dep

DMR Lag

(reprinted from April 2003 O&M Newsletter)

When the Department renews discharge permits, the parameter limits may change or parameters may be added or deleted. In some cases, it is merely the replacement of the federally issued NPDES permit with a state-issued MEPDES permit that results in different limits. When the new permit is finalized, a copy of the permit is passed to our data entry staff for coding into EPA's Permits Compliance System (PCS) database. PCS was developed in the 1970's and is not user-friendly. Entering or changing parameters can take weeks or even months. This can create a lag between the time your new permit becomes effective and the new permit limits appearing on your DMRs. If you are faced with this, it can create three different situations that have to be dealt with in different ways.

1. If the parameter was included on previous DMRs, but only the limit was changed, there will be a space for the data. Please go ahead and enter it. When the changes are made to PCS, the program will have the data and compare it to the new limit.

2. When a parameter is eliminated from monitoring in your new permit, but there is a delay in changing the DMR, you will have a space on the DMR that needs to be filled. For a parameter that has been eliminated, please enter the space on the DMR for that parameter only with "NODI-9" (No Discharge Indicator Code #9). This code means monitoring is conditional or not required this monitoring period.

3. When your new permit includes parameters for which monitoring was not previously required, and coding has not caught up on the DMRs, there will not be any space on the DMR identified for those parameters. In that case, please fill out an extra sheet of paper with the facility name and permit number, along with all of the information normally required for each parameter (parameter code, data, frequency of analysis, sample type, and number of exceedances). Each data point should be identified as monthly average, weekly average, daily max, etc. and the units of measurement such as mg/L or lb/day. Staple the extra sheet to the DMR so that the extra data stays with the DMR form. Our data entry staff cannot enter the data for the new parameters until the PCS coding catches up. When the PCS coding does catch up, our data entry staff will have the data right at hand to do the entry without having to take the extra time to seek it from your inspector or from you.

EPA is planning significant improvements for the PCS system that will be implemented in the next few years. These improvements should allow us to issue modified permits and DMRs concurrently. Until then we appreciate your assistance and patience in this effort.

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

DEPARTMENT ORDER

IN THE MATTER OF

PENOBSCOT MCCRUM LLC	)	MAINE POLLUTANT DISCHARGE
BELFAST, WALDO COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
FOOD PROCESSING FACILITY	)	AND
#ME0023043	)	WASTE DISCHARGE LICENSE
#W-004897-50-E-R **APPROVAL**	)	**RENEWAL**

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) has considered the application of PENOBSCOT MCCRUM LLC (PM LLC), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The applicant has applied for renewal of Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023043 / Maine Waste Discharge License (WDL) #W-004897-50-C-R, which was issued on July 10, 2002 for a five-year term. The MEPDES Permit / WDL authorized the discharge of up to a monthly average of 0.1 million gallons per day (MGD) and a daily maximum of 0.15 MGD of secondary treated process wastewaters as well as the discharge of up to a daily maximum of 0.075 MGD of non-contact cooling water and condensates from a potato processing facility to the tidewaters of Belfast (Passagassawakeag River), Class SB, in Belfast, Maine.

PERMIT SUMMARY

This permitting action is similar to the July 10, 2002 MEPDES Permit / Maine WDL in that it is carrying forward the:

1. Monthly average flow limit of 0.10 MGD for Outfall #001A and the monthly average flow reporting requirement and daily maximum flow limit of 0.075 MGD for Outfall #002A;
2. Best Practicable Treatment (BPT) based daily maximum limit for Settleable Solids;
3. Daily maximum limit of 15 mg/L for Oil and Grease;
4. pH range limitations of 6.0 to 8.5 standard units;
5. Monthly average and daily maximum reporting requirements for tons/day of raw potatoes processed;
6. Seasonal daily maximum temperature reporting requirement for Outfall #002A; and
7. Requirement to maintain a current Operations and Maintenance Plan for the facility.

This permitting action is different from the July 10, 2002 WDL in that it is:

1. Eliminating the daily maximum flow limit of 0.15 MGD for Outfall #001A and establishing a daily maximum flow reporting requirement;
2. Establishing revised monthly average and daily maximum mass and concentration limits for BOD and TSS for Outfall #001A based on BPT (effluent guidelines) and average production;
3. Establishing a daily maximum water quality based concentration limit for Total Residual Chlorine for Outfall #001A;
4. Eliminating daily maximum mass and concentration limits for total ammonia;
5. Establishing minimum monitoring frequency and sample type requirements based on Department Best Professional Judgement (BPJ); and
6. Establishing Whole Effluent Toxicity (WET), analytical chemistry, and chemical specific (priority pollutant) testing requirements pursuant to Department rules Chapter 530, *Surface Water Toxics Control Program* and Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants.*

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated September 13, 2007 and revised October 10, 2007, 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 MRSA 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 national resource, that water quality will be maintained and protected;

   c. The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;

   d. Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and

   e. Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharge will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the above noted application of PENOBSCOT MCCRUM LLC to discharge a monthly average of 0.1 MGD of secondary treated process wastewaters and a daily maximum of 0.075 MGD of non-contact cooling water and condensates to the tidewaters of Belfast (Passagassawakeag River), Class SB, 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 expires five (5) years from the date of signature below.

DONE AND DATED AT AUGUSTA, MAINE, THIS 17TH DAY OF OCTOBER, 2007.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
David P. Littell, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application June 18, 2007.

Date of application acceptance June 18, 2007.

Date filed with Board of Environmental Protection

FILED
OCT 18 2007
BOARD OF ENVIRONMENTAL PROT.
STATE OF MAINE

This order prepared by Robert D. Stratton, Bureau of Land and Water Quality.

SPECIAL CONDITIONS
A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **secondary treated process wastewaters** from **OUTFALL # 001A** to Belfast Bay / Passagassawakeag River. Such discharges shall be limited and monitored by the permittee as specified below. The italicized numeric values bracketed in the table below and on the following pages are code numbers that Department personnel utilize to code Discharge Monitoring Reports (DMRs).

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	0.10 MGD *[03]*	Report MGD *[03]*	---	---	Continuous *[99/99]*	Recorder *[RC]*
BOD_5 *[00310]*	124 lb/day *[26]*	182 lb/day *[26]*	149 mg/L *[19]*	218 mg/L *[19]*	1/Week *[01/07]*	Composite *[24]*
TSS *[00530]*	124 lb/day *[26]*	182 lb/day *[26]*	149 mg/L *[19]*	218 mg/L *[19]*	1/Week *[01/07]*	Composite *[24]*
Settleable Solids *[00545]*	---	---	---	0.3 ml/L *[25]*	3/Week *[03/07]*	Grab *[GR]*
Oil & Grease *[00552]*	---	---	---	15 mg/L *[19]*	2/Week *[02/07]*	Grab *[GR]*
Total Residual Chlorine(1) *[50060]*	---	---	---	0.2 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
pH (Std. Unit) *[00400]*	---	---	---	6.0 – 8.5 S.U. *[12]*	1/Day *[01/01]*	Grab *[GR]*
Production (2) *[00145]*	Report (tons/day) *[2N]*	Report (tons/day) *[2N]*	---	---	1/Month *[01/30]*	Calculate *[CA]*

SPECIAL CONDITIONS

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

SURVEILLANCE LEVEL - Beginning upon issuance of this permit and lasting through 12 months prior to permit expiration.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity[3]						
Acute – NOEL						
Mysidopsis bahia (Mysid Shrimp) [TDM3E]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Chronic – NOEL						
Arbacia punctulata (Sea urchin) [TBH3A]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Analytical Chemistry[4,5] [51168]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]
Priority Pollutant[5] [50008]	---	---	---	---	---	---

SCREENING LEVEL - Beginning 12 months prior to permit expiration and lasting through 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[3]						
Acute – NOEL						
Mysidopsis bahia (Mysid Shrimp) [TDM3E]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Chronic – NOEL						
Arbacia punctulata (Sea urchin) [TBH3A]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Analytical Chemistry[4,5] [51168]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority Pollutant[5] [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

SPECIAL CONDITIONS
A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. The permittee is authorized to discharge **non-contact cooling waters and condensates** from **OUTFALL # 002A** to Belfast Bay / Passagassawakeag River. Such discharges shall be limited and monitored by the permittee as specified below. The italicized numeric values bracketed in the table below and on the following pages are code numbers that Department personnel utilize to code DMRs.

Effluent Characteristic	**Discharge Limitations**				**Minimum Monitoring Requirements**	
	Monthly Average as specified	**Daily Maximum as specified**	**Monthly Average as specified**	**Daily Maximum as specified**	**Measurement Frequency as specified**	**Sample Type as specified**
Flow *[50050]*	Report MGD *[03]*	0.075 MGD *[03]*	---	---	1/Week *[01/07]*	Estimate *[ES]*
Temperature *[00011]* (June 1 – September 1)	---	---	---	Report°F *[15]*	3/Week *[03/07]*	Measure *[MS]*
pH (Standard Units) *[00400]*	---	---	---	6.0 – 8.5 S.U. *[12]*	1/Week *[01/07]*	Grab *[GR]*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes:

Effluent sampling location. Effluent samples for all parameters shall be collected after the last treatment process prior to discharge to the receiving water. Any change in sampling location(s) must be reviewed and approved by the Department in writing. Sampling and analysis must be conducted in accordance with: a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services.

All detectable analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit.

1. **Total residual chlorine (TRC)** – Limitations and monitoring requirements for TRC are applicable any time elemental chlorine or chlorine-based compounds are being utilized at the facility in a way in which they may enter the waste-stream and receiving water.

2. **Production** - The permittee shall report production as tons/day of raw potatoes processed.

3. **Whole Effluent Toxicity (WET)** - Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the acute and chronic critical thresholds of 6.7% and 0.67% respectively), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematic inverse of the applicable acute and chronic dilution factors of 15:1 and 151:1 respectively.

SPECIAL CONDITIONS

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

Footnotes:

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 per year (1/Year). Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*). Tests shall be conducted in a different calendar quarter each year.

b. **Screening level testing** - Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter, the permittee shall conduct screening level WET testing at a minimum frequency of once per year (1/Year). As required above, acute tests shall be conducted on the mysid shrimp and chronic tests shall be conducted on the sea urchin.

WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds of 6.7% and 0.67%, respectively. Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following U.S.E.P.A. 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 nine (9) parameters specified in the WET chemistry section, and the twelve (12) parameters specified in the analytical chemistry section, of the form in Attachment A of this permit each time a WET test is performed.

SPECIAL CONDITIONS

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

Footnotes:

4. **Analytical chemistry** – Analytical chemistry testing refers to a suite of twelve (12) chemical tests that consist of ammonia nitrogen (as N), total aluminum, total arsenic, total cadmium, total chromium, total copper, total cyanide, total lead, total nickel, total silver, total zinc and total residual chlorine.

   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 per year (1/Year). Tests shall be conducted in a different calendar quarter each year.

   b. **Screening level testing** - Beginning 12 months prior to permit expiration and lasting through 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).

5. **Priority pollutant testing** – Priority pollutants are those parameters listed by Department rule, Chapter 525, Section 4(IV).

   Screening level testing - Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per year (1/Year). It is noted Chapter 530 does not require routine surveillance level priority pollutant testing in the first four years of the term of this permit.

   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. See Attachment A of this permit for a list of the Department's reporting levels (RLs) of detection.

   Test results must be submitted to the Department not later than the next 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 ambient water quality criteria (AWQC) as established in Department rule Chapter 584, *Surface Water Quality Criteria For Toxic Pollutants*. For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

SPECIAL CONDITIONS

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

Footnotes:

All mercury sampling required to determine compliance with interim limitations established pursuant to Department rule Chapter 519, shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analysis shall be conducted in accordance with EPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See Attachment B of this Permit for the Department's report form for mercury 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 discharges shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.

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

C. TREATMENT PLANT OPERATOR

The wastewater treatment facility must be operated under the direction of a person holding a minimum of a **Grade II** certificate [or Maine Professional Engineer (PE) certificate] pursuant to Title 32 M.R.S.A., Section 4171 et seq. 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.

SPECIAL CONDITIONS

D. NOTIFICATION REQUIREMENT

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

1. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system.

2. For the purposes of this section, adequate notice shall include information on:

   a. The quality or quantity of waste water introduced to the waste water collection and treatment system; and

   b. Any anticipated impact of the change in the quantity or quality of the waste water to be discharged from the treatment system.

E. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on June 18, 2007; 2) the terms and conditions of this permit; and 3) only from Outfall #001A and Outfall #002A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

F. OPERATION & MAINTENANCE (O&M) PLAN

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

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

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

SPECIAL CONDITIONS

G. 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 Department assigned compliance inspector (unless otherwise specified) at the following address:

Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management, attn: Compliance Inspector
17 State House Station
Augusta, Maine 04333

H. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time, and with notice to the permittee, modify this permit to: (1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional effluent or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information including, but not limited to, new information from ambient water quality studies of the receiving waters.

I. 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

(Whole Effluent Toxicity, Analytical Chemistry, and Chemical Specific Test Reporting Forms and Reporting Limits)

Forms are also available at:
http://www.Maine.gov/dep/blwq/docstand/wd/toxics/

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

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

Licensed Flow (MGD)	
Acute dilution factor	
Chronic dilution factor	
Human health dilution factor	
Criteria type: M(arine) or F(resh)	m

Flow for Day (MGD)[1] _____ Flow Avg. for Month (MGD)[2] _____
Date Sample Collected _____ Date Sample Analyzed _____
Laboratory Address _____ Telephone _____
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.

			Effluent Limits, %			Receiving Water or Ambient	Effluent Concentration (ug/L or as noted)		Possible Exceedence [7]		
	WHOLE EFFLUENT TOXICITY		Acute	Chronic			WET Result, % Do not enter % sign	Reporting Limit Check	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	Acute[6]	Chronic[6]	Health[6]			Reporting Limit Check	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.

BN	FLUORANTHENE	5									
BN	FLUORENE	5									
BN	HEXACHLOROBENZENE	2									
BN	HEXACHLOROBUTADIENE	1									
BN	HEXACHLOROCYCLOPENTADIENE	10									
BN	HEXACHLOROETHANE	2									
BN	INDENO(1,2,3-CD)PYRENE	5									
BN	ISOPHORONE	5									
BN	N-NITROSODI-N-PROPYLAMINE	10									
BN	N-NITROSODIMETHYLAMINE	1									
BN	N-NITROSODIPHENYLAMINE	5									
BN	NAPHTHALENE	5									
BN	NITROBENZENE	5									
BN	PHENANTHRENE	5									
BN	PYRENE	5									
P	4,4'-DDD	0.05									
P	4,4'-DDE	0.05									
P	4,4'-DDT	0.05									
P	A-BHC	0.2									
P	A-ENDOSULFAN	0.05									
P	ALDRIN	0.15									
P	B-BHC	0.05									
P	B-ENDOSULFAN	0.05									
P	CHLORDANE	0.1									
P	D-BHC	0.05									
P	DIELDRIN	0.05									
P	ENDOSULFAN SULFATE	0.1									
P	ENDRIN	0.05									
P	ENDRIN ALDEHYDE	0.05									
P	G-BHC	0.15									
P	HEPTACHLOR	0.15									
P	HEPTACHLOR EPOXIDE	0.1									
P	PCB-1016	0.3									
P	PCB-1221	0.3									
P	PCB-1232	0.3									
P	PCB-1242	0.3									
P	PCB-1248	0.3									
P	PCB-1254	0.3									
P	PCB-1260	0.2									
P	TOXAPHENE	1									
V	1,1,1-TRICHLOROETHANE	5									
V	1,1,2,2-TETRACHLOROETHANE	7									
V	1,1,2-TRICHLOROETHANE	5									
V	1,1-DICHLOROETHANE	5									
V	1,1-DICHLOROETHYLENE (1,1-dichloroethene)	3									
V	1,2-DICHLOROETHANE	3									
V	1,2-DICHLOROPROPANE	6									
V	1,2-TRANS-DICHLOROETHYLENE (1,2-trans-dichloroethene)	5									
V	1,3-DICHLOROPROPYLENE (1,3-dichloropropene)	5									
V	2-CHLOROETHYLVINYL ETHER	20									

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:

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS

Facility Name _____ MEPDES Permit # _____

Facility Representative _____ Signature _____

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

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

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

	mysid shrimp	sea urchin
A-NOEL		
C-NOEL		

Effluent Limitations

A-NOEL	
C-NOEL	

Data summary

	mysid shrimp % survival	sea urchin % fertilized
QC standard	>90	>70
lab control		
receiving water control		
conc. 1 (%)		
conc. 2 (%)		
conc. 3 (%)		
conc. 4 (%)		
conc. 5 (%)		
conc. 6 (%)		
stat test used		

place * next to values statistically different from controls

Salinity Adjustment

brine	
sea salt	
other	

Reference toxicant

	mysid shrimp A-NOEL	sea urchin 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 B

(Mercury Testing Reporting Form)

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

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

SAMPLE COLLECTION INFORMATION

Sampling Date: ___ ___ _____ (mm dd yy) Sampling time: _____ AM/PM

Sampling Location:

Weather Conditions: _____

Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:

Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:

Suspended Solids _____ mg/L Sample type: _____ Grab (recommended) or _____ Composite

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

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

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: September 13, 2007
Revised: October 10, 2007

MEPDES PERMIT NUMBER: **#ME0023043**
MAINE WDL NUMBER: **#W-004897-50-E-R**

NAME AND ADDRESS OF APPLICANT:

PENOBSCOT McCRUM LLC
P.O. Box 229
Belfast, Maine 04915

COUNTY: **Waldo County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

32 Pierce Street
Belfast, Maine

RECEIVING WATER/CLASSIFICATION: **Tidewaters of Belfast**
Passagassawakeag River, Class SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Adam W. Adriance**
(207) 338-4360 ext 216

1. APPLICATION SUMMARY:

a. Application: The applicant has applied for renewal of Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023043 / Maine Waste Discharge License (WDL) #W-004897-50-C-R, which was issued on July 10, 2002 for a five-year term. The MEPDES Permit / WDL authorized the discharge of up to a monthly average of 0.1 million gallons per day (MGD) and a daily maximum of 0.15 MGD of secondary treated process wastewaters as well as the discharge of up to a daily maximum of 0.075 MGD of non-contact cooling water and condensates from a potato processing facility to the tidewaters of Belfast (Passagassawakeag River), Class SB, in Belfast, Maine.

2. PERMIT SUMMARY

a. Regulatory: On January 12, 2001, the Department received authorization from the U.S. Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine, excluding areas of special interest to Maine Indian Tribes. On October 30, 2003, after consultation with the U.S. Department of Justice, USEPA extended Maine's NPDES program delegation to all but tribally owned discharges. That decision was subsequently appealed. On August 8, 2007, a panel of the U.S. First Circuit Court of Appeals ruled that Maine's environmental regulatory jurisdiction applies uniformly throughout the State. From January 12, 2001 forward, the program has been referred to as the MEPDES program and permit #ME0023043 (same as NPDES permit number) utilized as the primary reference number for the PM LLC facility.

b. Conditions: This permitting action is similar to the July 10, 2002 MEPDES Permit / Maine WDL in that it is carrying forward the:

1. Monthly average flow limit of 0.10 MGD for Outfall #001A and the monthly average flow reporting requirement and daily maximum flow limit of 0.075 MGD for Outfall #002A;
2. Best Practicable Treatment (BPT) based daily maximum limit for Settleable Solids;
3. Daily maximum limit of 15 mg/L for Oil and Grease;
4. pH range limitations of 6.0 to 8.5 standard units;
5. Monthly average and daily maximum reporting requirements for tons/day of raw potatoes processed;
6. Seasonal daily maximum temperature reporting requirement for Outfall #002A; and
7. Requirement to maintain a current Operations and Maintenance Plan for the facility.

This permitting action is different from the July 10, 2002 WDL in that it is:

1. Eliminating the daily maximum flow limit of 0.15 MGD for Outfall #001A and establishing a daily maximum flow reporting requirement;
2. Establishing revised monthly average and daily maximum mass and concentration limits for BOD and TSS for Outfall #001A based on BPT (effluent guidelines) and average production;
3. Establishing a daily maximum water quality based concentration limit for Total Residual Chlorine for Outfall #001A;
4. Eliminating daily maximum mass and concentration limits for total ammonia;
5. Establishing minimum monitoring frequency and sample type requirements based on Department Best Professional Judgement (BPJ); and
6. Establishing Whole Effluent Toxicity (WET), analytical chemistry, and chemical specific (priority pollutant) testing requirements pursuant to Department rules Chapter 530, *Surface Water Toxics Control Program* and Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants.*

2. PERMIT SUMMARY (cont'd)

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

September 14, 1983 – The Department issued WDL #4897 for a five year term.

December 12, 1986 – The Department issued a modification of WDL #4897 which increased the daily maximum flow limitation from 0.10 MGD to 0.20 MGD. The flow increase was necessary to accommodate consolidation of the licensee's Spring Street and Pierce Street plants.

July 21, 1987 – The USEPA issued NPDES permit #ME0023043 for a five year term.

May 24, 1989 – The licensee (then Penobscot Frozen Foods (PFF)) and the Department entered into an Administrative Consent Agreement (CA) and Enforcement Order for numerous license violations for BOD_5, TSS, settleable solids and oil & grease. The Order required PFF to construct a biological wastewater treatment facility.

July 12, 1989 – The Department issued WDL #W004897-42-B-R for a five year term.

March 1990 – As stipulated by the 5/24/89 CA, PFF completed the construction of, and had operational, a sequencing batch reactor (SBR) biological wastewater treatment facility.

August 27, 1993 - The licensee applied for renewal of WDL #W004897-42-B-R, but withdrew the application on September 13, 1993.

February 17, 1995 – The Department issued a letter to the licensee stating that the process wastewater discharge from the PFF facility was not subject to whole effluent toxicity (WET) or priority pollutant (chemical specific) testing stipulated in a newly promulgated Department regulation, Chapter 530.5, Surface Water Toxics Control Program, October 12, 1994.

June 1, 2000 – Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *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 # W004897-42-B-R.

August 21, 2001 – The Maine Superior Court issued a Consent Order to PFF for violations of the State's water quality laws and WDL #W-004897-42-B-R which was issued by the Department on July 12, 1989. The Consent Order required PFF to submit a comprehensive facility plan for the renovation, expansion or replacement of the existing wastewater treatment facility and pay a monetary penalty for the violations.

2. PERMIT SUMMARY (cont'd)

July 10, 2002 - The Department issued WDL #W-004897-5O-C-R / MEPDES Permit #ME0023043 for the discharge of up to a monthly average of 0.1 MGD and a daily maximum of 0.15 MGD of secondary treated potato processing wastewaters as well as the discharge of up to a daily maximum of 0.075 MGD of non-contact cooling water to the tidewaters of Belfast / Passagassawakeag River. The Permit/WDL was issued for a five-year term.

November 9, 2004 - The Department issued WDL #W-004897-5O-D-T / MEPDES Permit #ME0023043, transferring the MEPDES Permit / Maine WDL from PFF to Penobscot McCrum, LLC (PM LLC).

March 8, 2006 – The Department informed PM LLC via letter that changes being undertaken to the Surface Water Toxics Control Program pursuant to the adoption of Department rule Chapter 530 would likely result in toxicity testing requirements with the next MEPDES Permit / Maine WDL renewal.

June 18, 2007 – PM LLC submitted a timely application for renewal of its WDL / MEPDES Permit. The application was assigned WDL #W-004897-5O-E-R / MEPDES Permit #ME0023043,

d. Source Description: The PM LLC facility processes potatoes by baking, blanching and frying them into frozen food products. The water used in PM LLC's processing activities is obtained from the Belfast Water District. Current production at the facility is reported by the permittee in the 06/18/07 permit application as consisting of an average of approximately 172,000 pounds of raw potatoes per day, a maximum of 293,000 pounds per day, and a projected annual total of 32,750,000 pounds per year in production of various products.

Most of the wastewater generated in the manufacturing process is the result of equipment and floor washdown that takes place hourly with additional mid-day and end-of-day washdowns. This wastewater is discharged to the receiving water via Outfall #001A. The permittee has provided the Department with a list of chemicals used for sanitation or disinfection during production and clean-up operations. Additional wastewater consists of flow from the oven room, which is the result of condensed moisture drawn from the potatoes, condensate from an air compressor, and condensate from the freezer equipment in the freezer/defrost holding room. The make-up water for air and refrigeration compressor units consists of potable water from the Belfast Water District. This wastewater is discharged to the receiving water via Outfall #002A. All potatoes are washed at the PM LLC's Washburn facility and then transported to PM LLC's Belfast facility, which reduces the volume of wastewater at this facility.

2. PERMIT SUMMARY (cont'd)

Potato waste materials are trucked to farms for utilization. All sanitary wastewaters generated at the facility are conveyed to the Belfast wastewater treatment facility, which is permitted separately under MEPDES permit #ME0101532.

e. Wastewater Treatment: PM LLC's water useage is as represented in Fact Sheet Attachment B. PM LLC operates a sequencing batch reactor (SBR) biological wastewater treatment facility to provide treatment of all processing wastewater. The wastewater facility provides a secondary level of treatment via settling in two lamellae clarifiers and one SBR unit. In 2006, to address previous oil and grease effluent limit exceedences, PM LLC supplemented its facility infrastructure with the installation of two oil and grease skimmer units, one in the blanch room and one in the treatment plant's lamellae clarifiers. PM LLC discharges treated processing wastewater through Outfall #001A, two to three times per 24-hour period. Each discharge event consists of approximately 15,000 gallons of wastewater, for a total average discharge of approximately 45,000 gallons per day (GPD) and a maximum discharge of approximately 70,000 GPD. Outfall #001A consists of a 12-inch diameter pipe that outlets into Belfast Bay in a depth of approximately 10-feet at mean low water. PM LLC discharges potato moisture condensate, non-contact cooling water, and air and refrigeration condensate through Outfall #002A, a 12-inch diameter culvert that runs beneath an adjacent railroad track and outlets to the ground surface, with discharged flows eventually reaching the intertidal portion of Belfast Bay. The permittee reports that the Outfall #002A discharge is a continuous discharge consisting of an average of 300 to 1,000 GPD and a maximum discharge of approximately 1,000 GPD. DMR data indicates significantly greater volumes, as described in Fact Sheet Section 6a.

3. CONDITIONS OF PERMITS

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

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A. 469 classifies the tidewaters of Belfast as a Class SB waterway. Maine Law, 38 M.R.S.A., Section 465-B(2) describes the standards for classification of Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS:

The State of Maine 2006 Draft *Integrated Water Quality Monitoring and Assessment Report* (DEPLW0817), prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act includes the receiving water in the designation *Belfast Bay* (Waterbody ID 722-23, DMR Area 32) listed in Category 5-B-1, Estuarine and Marine Waters Impaired only by Bacteria (TMDL Required). The listing identifies a 4,172 acre (6.52 sq.mi.) segment of Class SB water, with sources of "*STP; OBDs; Boats; Elevated fecals; Nonpoint Source*", and with the sample year indicated as "*current*".

The Maine Department of Marine Resources (MeDMR) assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The MeDMR has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality. The MeDMR 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 MeDMR 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. Pursuant to MeDMR Regulation 95.08B, Closed Area No. 32, Belfast Bay, Belfast, as of January 3, 2000, "*because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of Belfast Bay, Waldo County, westerly of a line drawn from the most southern tip of Moose Point, Searsport, southerly to a red painted post located at the northernmost point on the south side of Kelly Cove, Northport*".

As noted in the previous permitting action, "*Belfast Bay has been closed to the harvesting of shellfish since March 4, 1983*" and "*all sanitary waste waters generated at the* (PM LLC) *facility are conveyed to the City of Belfast's waste water treatment facility*".

The Department has no information that the PM LLC facility causes or contributes to non-attainment conditions in the receiving water listed in the 303(d)/305(b) report or to the closure of the shellfish harvesting area. If it is determined in the future that the PM LLC facility causes or contributes to non-attainment conditions in the receiving water, this permitting action may be reopened pursuant to Permit Special Condition H and effluent limitations, monitoring and operational requirements, and/or wastewater treatment requirements adjusted accordingly.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS:

As was done in the previous permitting action, this permitting action establishes effluent limitations and monitoring requirements for two processes and outfalls: Outfall #001A for process wastewaters and Outfall #002A for non-contact cooling water from air and refrigeration compressor units and condensates.

a. Flow: The previous permitting action carried forward flow limitations for Outfall #001A consisting of a monthly average limit of 0.10 MGD and a daily maximum limit of 0.15 MGD from the previous licensing action. It also established flow limitations for Outfall #002A consisting of a monthly average reporting requirement and a daily maximum limit of 0.075 MGD based on information provided by the permittee. Flow monitoring was required continuously for Outfall #001A and weekly for Outfall #002A. In this permitting action, the daily maximum limit for Outfall #001A is being eliminated and effluent flow regulated through the monthly average limit, common to other facility permits and based upon Department Best Professional Judgement (BPJ). All Other effluent flow limitations and monitoring requirements are being carried forward in this permitting action

A review of the Discharge Monitoring Report (DMR) data for Outfall #001A for the period July 2002 through March 2007 indicates the monthly average flow has ranged from 0.0179 MGD to 0.0791 MGD with an arithmetic mean of 0.0509 MGD. The daily maximum flow has ranged from 0.0353 MGD to 0.1301 MGD with an arithmetic mean of 0.0896 MGD. A review of the DMR data for Outfall #002A for the same period indicates the monthly average flow has ranged from 0.0001 MGD to 0.0494 MGD with an arithmetic mean of 0.0167 MGD. The daily maximum flow has ranged from 0.0003 MGD to 0.0540 MGD with an arithmetic mean of 0.0181 MGD.

b. Dilution Factors: Department Regulation Chapter 530 *Surface Water Toxics Control Program*, §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.

6. 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.

As indicated in Fact Sheet Section 6 of the previous permitting action, the Department utilized facility plan and profile information provided by the permittee and calculations based on interpretation of the CORMIX model whose parameters include facility permitted flows, outfall/diffuser configuration (pipe 12" in diameter with no diffuser); and in-stream mixing characteristics (based on 15 minute travel time) determined from modeling and/or field to establish applicable dilution factors (that are being carried forward in this permitting action) as follows::

Acute = 15:1 Chronic = 151:1 Harmonic mean [1] = 453:1

Footnote:

(1) Pursuant to Department rule Chapter 530, "*Surface Water Toxics Control Program*", §4(a)(2)(c), the harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by a factor of three (3).

Dilution information only applies to Outfall #001A, based on outfall and flow conditions for Outfall #002A, as described in Fact Sheet Sections 2d and 2e.

c. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS) – The previous permitting action established monthly average and daily maximum mass limits for BOD_5 and TSS based on State of Maine technology based guidelines developed in 1976 for the potato processing industry. The guidelines established production based limits for BOD_5 and TSS of 0.95 lb/1000 lb (1.9 lbs/ton) of raw potatoes processed as the monthly average limit and 1.4 lb/1000 lb (2.8 lbs/ton) of raw potatoes processed as the daily maximum limit. At the time of the previous permitting action, facility DMR data indicated a mean monthly average production of approximately 60 tons/day and a mean daily maximum production of 85 tons/day. The 85 ton/day figure was used to calculate the production based mass limits as follows:

Monthly average: 85 tons/day (1.9 lbs/ton) = 162 lbs/day
Daily Maximum: 85 tons/day (2.8 lbs/ton) = 238 lbs/day

Per USEPA guidance, the average actual production is to be used for development of National Effluent Guideline based effluent limits, instead of the maximum production that was used in the previous licensing action. The Department's review of DMR data for PM LLC for the period of March 2004 through March 2007 indicates a mean monthly average production of 65 tons/day during the three year period. Based on this, effluent mass limits for this permitting action are calculated as follows:

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

Monthly average: 65 tons/day (1.9 lbs/ton) = 124 lbs/day
Daily Maximum: 65 tons/day (2.8 lbs/ton) = 182 lbs/day

The previous permitting action carried forward monthly average and daily maximum concentration limits of 200 mg/L for both BOD_5 and TSS from the previous licensing action. At the time, the concentration limits were based on a Department BPJ of best practicable treatment (BPT)of PM LLC's wastewater treatment facility when properly operated and maintained. In this permitting action, BPJ of BPT based concentration limits are calculated from the mass limits, monthly average flow limit, and a conversion factor of 8.34 lbs/gallon, as follows:

Monthly average: 124 lbs/day / (0.1 MGD x 8.34 lbs/gal) = 149 parts per million (mg/L)
Daily Maximum: 182 lbs/day / (0.1 MGD x 8.34 lbs/gal) = 218 parts per million (mg/L)

The Department reviewed DMR data for PM LLC for the period of July 2002 through March 2007 and found the following information in reference to both the previous and present limits:

BOD MASS

Value	Limit (lbs/day) Previous/Present	Range (lbs/day)	Average (lbs/day)
Monthly Average	162 / 124	1.47-53.5	11.0
Daily Maximum	238 / 182	1.70-119.6	21.3

BOD CONCENTRATION

Value	Limit (mg/L) Previous/Present	Range (mg/L)	Average (mg/L)
Monthly Average	200 / 149	2.90-54.0	16.4
Daily Maximum	200 / 218	5.10-160.0	33.5

TSS MASS

Value	Limit (lbs/day) Previous/Present	Range (lbs/day)	Average (lbs/day)
Monthly Average	162 / 124	1.30-34.2	9.3
Daily Maximum	238 / 182	2.70-77.1	17.9

TSS CONCENTRATION

Value	Limit (mg/L) Previous/Present	Range (mg/L)	Average (mg/L)
Monthly Average	200 / 149	3.10-37.3	15.4
Daily Maximum	200 / 218	6.50-94.0	30.5

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

Monitoring frequencies for BOD and TSS of 1/Week in the previous permitting action are being carried forward based on Department best professional judgement.

d. Settleable Solids – The previous permitting action carried forward a daily maximum concentration limit of 0.3 ml/L from the previous licensing action. This limit is considered Best Professional Judgement (BPJ) of Best Practicable Treatment (BPT) for secondary treated wastewaters and is being carried forward in this permitting action as well. The Department reviewed DMR data for PM LLC for the period of July 2002 through March 2007 and found all results to be less than the 0.3 ml/L limit, representative of the accuracy of the measuring equipment at the facility. The previous minimum monitoring frequency requirement of once per day is being revised in this permitting action to three times per week based on PM LLC's long-term TSS and settleable solids effluent quality and Department BPJ.

e. Oil & Grease – The previous permitting action established a daily maximum concentration limit of 15 mg/L for oil and grease, based on BPJ of a best practicable treatment and water quality based limit necessary so as not to cause a visible oil sheen on the surface of the receiving waters (Permit Special Condition B(1).

It is noted that in June 2006, PM LLC installed two oil and grease skimmer units, one in the blanch room and one in the treatment plant's lamellae clarifiers. A review of the DMR data for Outfall #001A for the period July 2006 through March 2007 indicates that the daily maximum effluent oil and grease monthly has ranged from < 1.0 to 21.0 mg/L with an arithmetic mean of 6.6 mg/L. The 21.0 mg/L value represents the only limit exceedence during the review period. The previous minimum monitoring frequency requirement of 1/week is being revised in this permitting action to 2/week based on the MEDEP compliance inspector's view of continued exceedences and operational issues.

f. Total Residual Chlorine (TRC) – In the previous permitting action, the Department eliminated an earlier established 1.0 mg/L daily maximum BPT based concentration limit for total residual chlorine. This action was undertaken based on information provided by the permittee that use of all chlorine-based compounds were eliminated at PM LLC in 1999. In it's 2007 renewal application, PM LLC indicates that it's effluent contains an average TRC concentration of 0.12 mg/L, which was attributed to the municipal water used in PM LLC's processes at the time of the previous permitting action. Also in its renewal application, PM LLC provided a list of chemicals used for sanitation or disinfection at the facility, some of which known to be chlorine-based.

Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. The Department imposes the more stringent of the water quality or technology based limits in permitting actions. End-of-pipe water quality based concentration thresholds may be calculated as follows:

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

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	0.013 mg/L	0.0075 mg/L	15:1	151:1	0.2 mg/L	1.1 mg/L

Example calculation: Acute – 0.013 mg/L (15) = 0.2 mg/L

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine based compounds or utilize such compounds so that they may enter the waste-stream and receiving water. As PM LLC's acute water quality based limit is more stringent than the BPT limit, the 0.2 mg/L daily maximum limit is being established in this permitting action, with a 1/day minimum monitoring requirement that is common to all facilities that discharge up to 1.5 MGD of effluent flow.

Limitations and monitoring requirements for TRC are applicable any time elemental chlorine or chlorine-based compounds are being utilized at the facility in a way in which they may enter the waste-stream and receiving water.

g. pH – The previous permitting action established a pH range limit of 6.0-8.5 standard units for both Outfall #001A and Outfall #002A. The Department reviewed DMR data for PM LLC for the period of July 2002 through March 2007 and found all results for both Outfall #001A and Outfall #002A to be within the pH range limit. This permitting action is carrying forward the 6.0 to 8.5 standard unit pH limit and monitoring frequency requirements of 1/day for Outfall #001A and 1/week for Outfall #002A from the previous permit based on Department BPJ of BPT.

h. Production: The previous permitting action required reporting of monthly average and daily maximum production in tons/day of raw potatoes processed, which is being carried forward in this permitting action. At the time of the previous permitting action, facility DMR data indicated a mean monthly average production of approximately 60 tons/day and a mean daily maximum production of 85 tons/day. The Department's review of DMR data for PM LLC for the period of March 2004 through March 2007 indicates a mean monthly average production of 65 tons/day during the three year period. The once per month monitoring frequency is also being carried forward in this permitting action.

i. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemical Testing: The previous permitting action did not require PM LLC to conduct WET, priority pollutant, or analytical chemical testing, consistent with the provisions of Chapter 530.5, the toxics rule in effect at that time. However, on October 9, 2005, a new Department rule replaced Chapter 530.5, establishing requirements applicable to PM LLC. Maine law, 38 M.R.S.A., Sections 414-A and 420, prohibit the discharge of effluents containing

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

substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department Rules, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, and Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants* 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 Chapter 530, are included in this permit in order to fully characterize the effluent. WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health AWQC as established in Chapter 584.

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

Level I – chronic dilution factor of <20:1.
Level II – chronic dilution factor of ≥20:1 but <100:1.
Level III – chronic dilution factor ≥100:1 but <500:1 or >500:1 and Q ≥1.0 MGD
Level IV – chronic dilution >500:1 and Q ≤1.0 MGD

Department rule Chapter 530 (2)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee's facility falls into the Level III frequency category as the facility has a chronic dilution factor ≥100:1 but <500:1. Chapter 530(2)(D)(1) specifies that default surveillance and screening level testing requirements are as follows, which are being established in this permitting action:

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

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

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

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
III	1 per year	None required	1 per year

j. Temperature: The previous permitting action established a seasonal daily maximum temperature reporting requirement from June 1 through September 1 for Outfall #002A, with monitoring conducted at a frequency of 3/week. A review of the DMR data for Outfall #002A for the period July 2002 through September 2006 indicates the maximum effluent temperature has ranged from 69 degrees F to 84.2 degrees F, with an average temperature of 76.3 degrees F.

Department rule (06-096 CMR) Chapter 582, Regulations Relating to Temperature, Section 5, states, "*No discharge of pollutants shall cause the monthly mean of the daily maximum ambient temperature in any tidal body of water, as measured outside the mixing zone, to be raised more than 4 degrees Fahrenheit, nor more than 1.5 degrees Fahrenheit from June 1 to September 1. In no event shall any discharge cause the temperature of any tidal waters to exceed 85 degrees Fahrenheit at any point outside a mixing zone established by the Board*" of Environmental Protection.

Based upon the variable flows and temperatures reported for Outfall #002A above and Department BPJ, this permitting action carries forward the seasonal temperature reporting requirement and monitoring frequency.

k. Total Ammonia – The previous permitting action carried forward a 10 mg/L daily maximum concentration limit for total ammonia from the previous NPDES permit and established a 12.5 lb/day daily maximum mass limit based on state and federal rules pertaining to establishment of effluent limitations. The origin of the original ammonia concentration limit is unknown. The Department reviewed DMR data for PM LLC for the period of July 2002 through March 2007 and found a range of daily maximum concentration values of <0.2 mg/L to 8.6 mg/L, with an average of 1.38 mg/L. Based upon a statistical evaluation of PM LLC's DMR data, the Department has determined that there is no reasonable potential to exceed, and thus in this permitting action has eliminated, the effluent limitations for total ammonia.

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

1. Mercury – On June 1, 2000, Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *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 # W004897-42-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 50.8 parts per trillion (ppt) and 76.3 ppt, respectively, and a minimum monitoring frequency requirement of 2 tests per year for mercury. It is noted the limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit, as limitations and monitoring frequencies are regulated separately through 38 M.R.S.A. § 413 and 06-096 CMR 519. However, the interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY:

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

8. PUBLIC COMMENTS

Public notice of this application was made in the Republican Journal newspaper on or about June 12, 2007. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

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

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

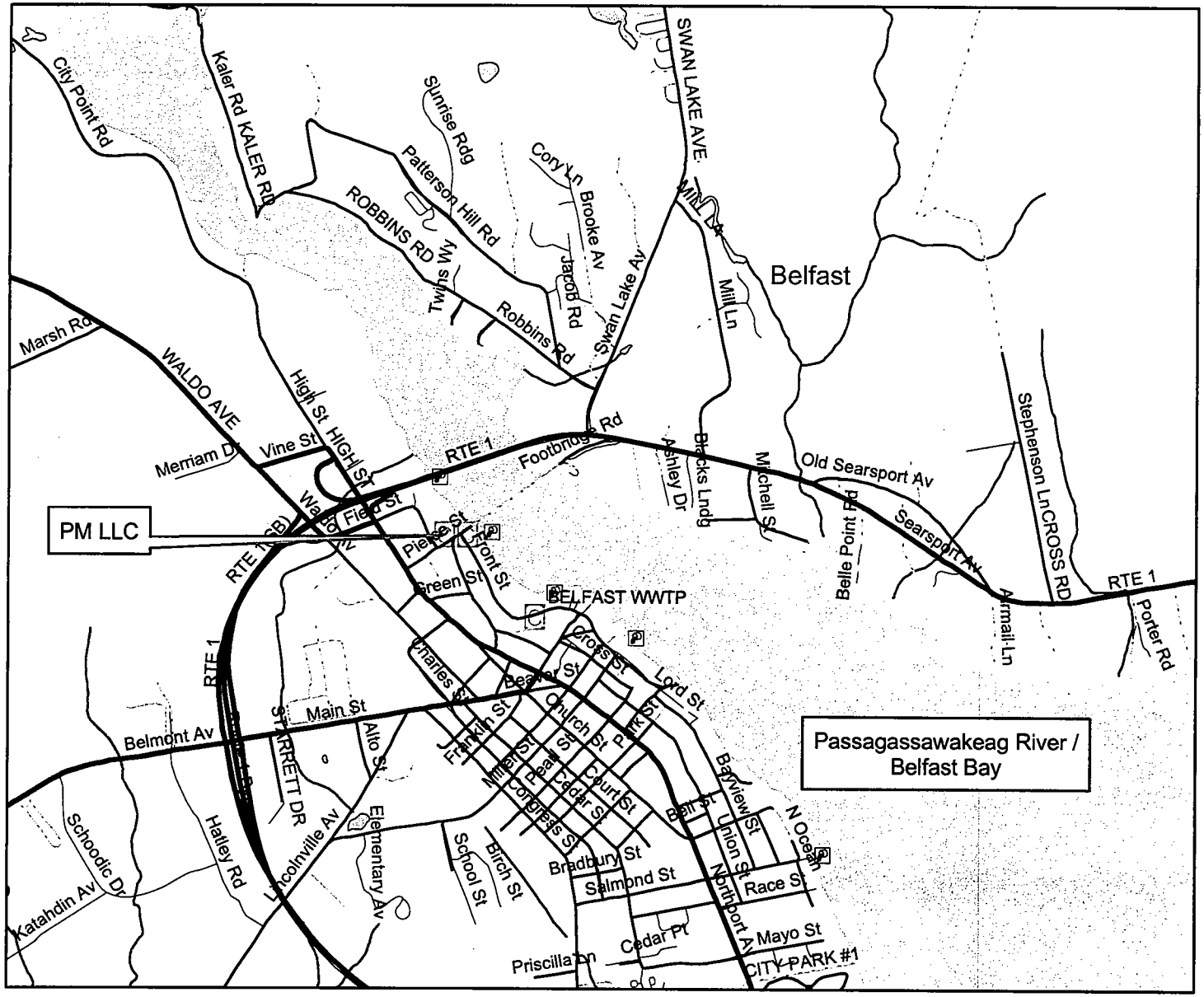
Telephone (207) 287-6114
Fax (207) 287-3435
email: Robert.D.Stratton@maine.gov

10. RESPONSE TO COMMENTS

During the period of September 13, 2007 through October 15, 2007, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit / Maine Waste Discharge License to be issued to Penobscot McCrum LLC for the proposed discharge. The Department did not receive any comments that resulted in significant revisions to the permit, but made some minor internal revisions. Therefore, no response to comments has been prepared.

ATTACHMENT A

(Facility Location Maps)



Legend

Streams

- AA
- A
- B
- C
- Ponds and Lakes
- Wastewater_Facilities
- Wastewater_Outfalls

Roads

JURISDICTION

- Town Road
- Town Road - Summer
- Town Road - Winter
- State-aided Highway
- State Highway
- Toll Highway
- Private Road
- Reservation Road
- Seasonal Parkway
- SA
- SB
- sa
- sb
- sc

N

Miles
0 0.05 0.1 0.2 0.3 0.4

Penobscot McCrum LLC
Belfast, Maine

Map created by:
Bob Stratton
Division of Water Quality Management
Maine Department of Environmental Protection

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF MAINE

NOTICE OF EMERGENCY RULE PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE PROMULGATION: DMR Regulation 95.08 B, Closed Area No. 32, Belfast Bay, Belfast promulgated:

TEXT OF RULE: DMR Regulation 95.08 B, Closed Area No. 32, Belfast Bay, Belfast

1. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of Belfast Bay, Waldo County, westerly of a line drawn from the most southern tip of Moose Point, Searsport, southerly to a red painted post located at the northernmost point on the south side of Kelly Cove, Northport.

Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. Section 6204).

EFFECTIVE DATE: January 3, 2000

AGENCY CONTACT PERSON:

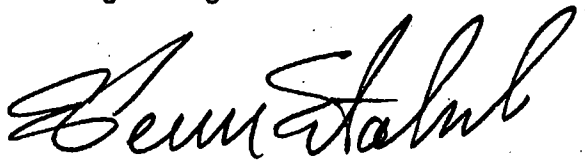
Amy M. Fitzpatrick
Department of Marine Resources
McKown Point Road
West Boothbay Harbor, Maine 04575

BANGOR DAILY NEWS
January 6, 2000

STATEMENT OF FACT AND POLICY

The Commissioner of the Maine Department of Marine Resources promulgates the emergency DMR Regulation 95.08 B, Closed Area No. 32, Belfast Bay, Belfast.

The Commissioner takes this action as an administrative promulgation in order to update these rules. There are no substantive changes being made to these closure lines at this time.



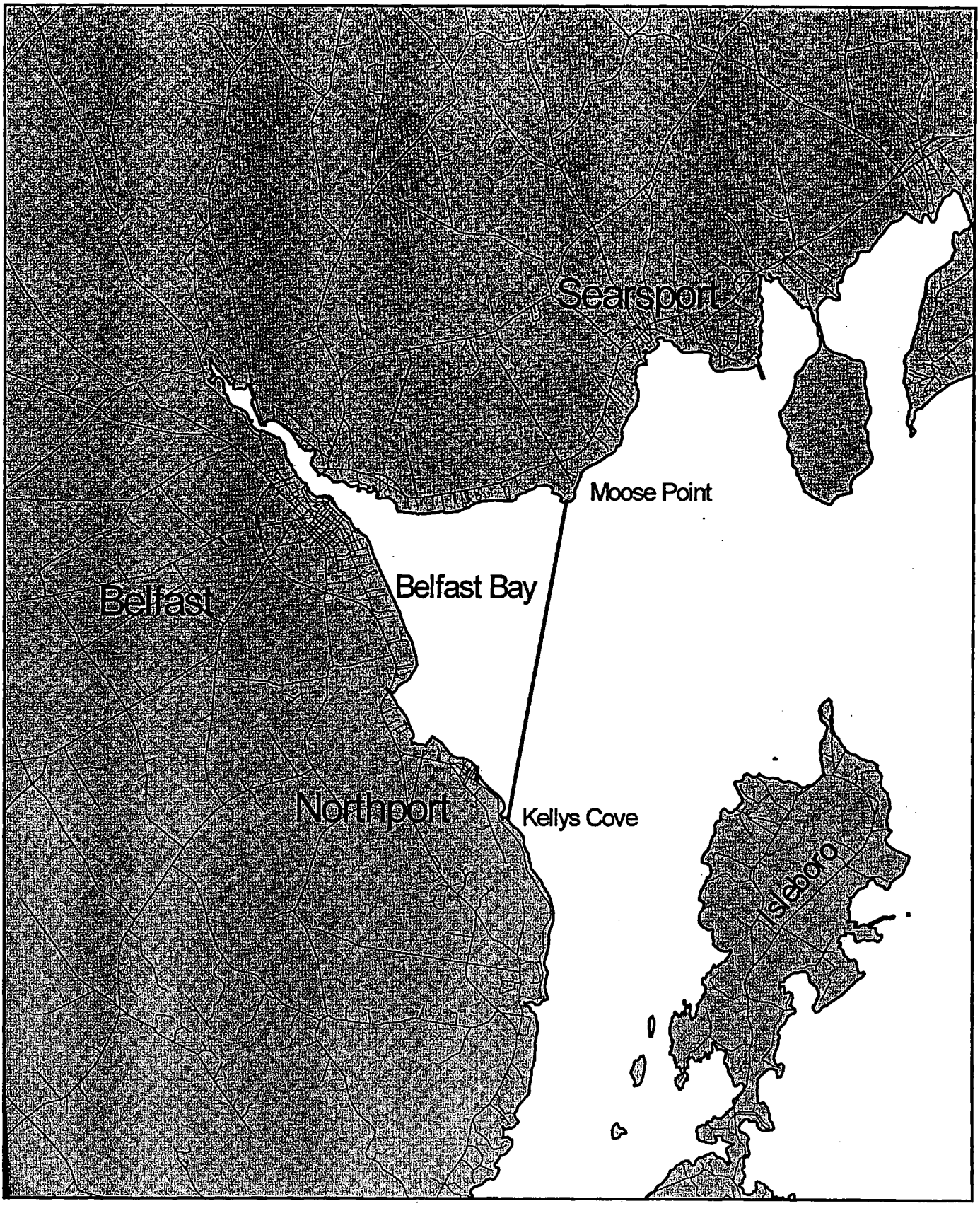
E. PENN ESTABROOK, DEPUTY COMMISSIONER

Z:\closures\AREAS.CL32-January3[00].lwp

Department of Marine Resources

Legal Notice of Shellfish Closure Area

C 32 Belfast Bay, Belfast

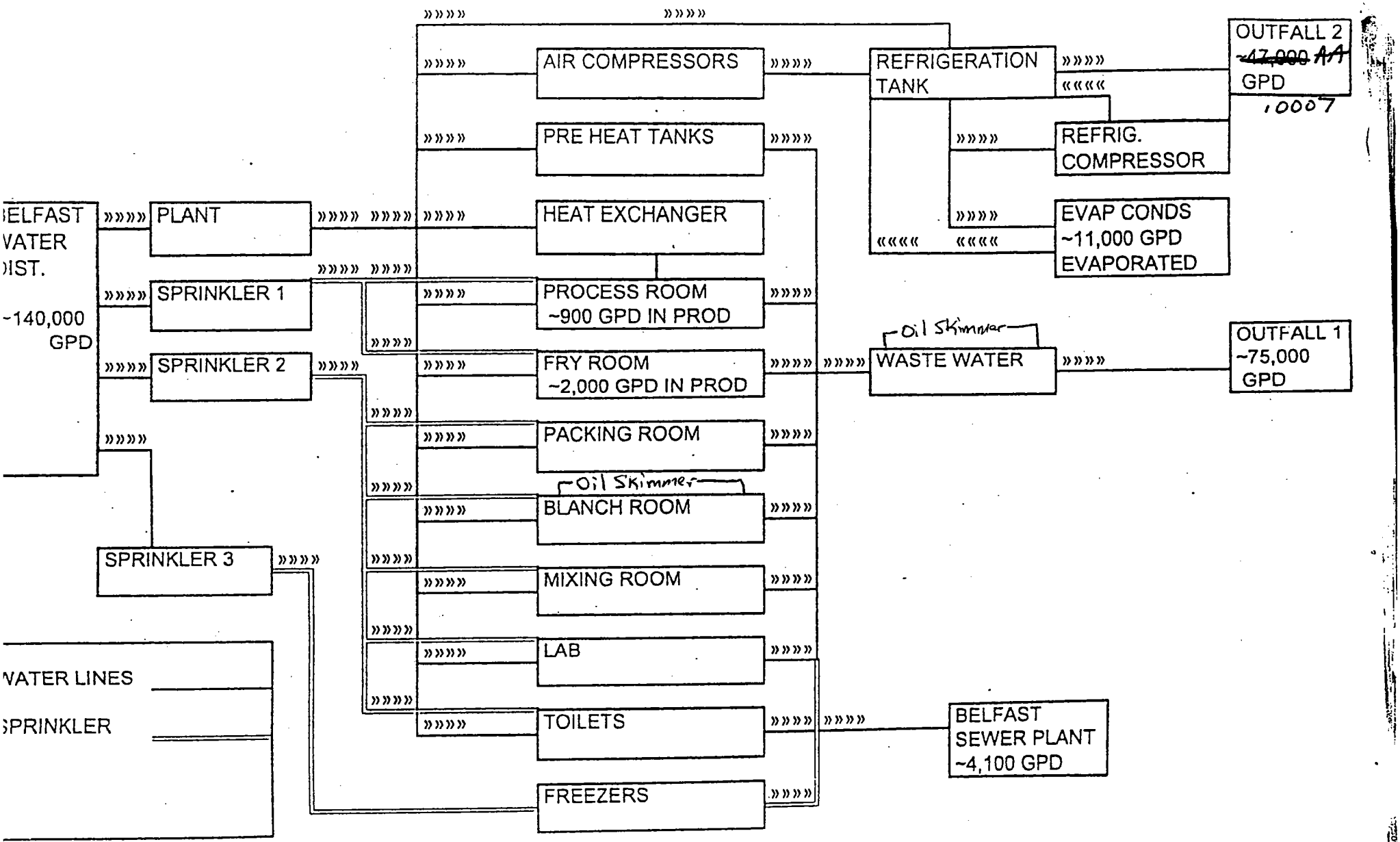


ATTACHMENT B

(Facility Site Plans)

#2

PENOBSCOT FROZEN FOODS, INC. WATER USAGE SCHEMATIC



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.