STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

September 13, 2007

Mr. Michael Green
Portland Water District
P.O. Box 3553
Portland, Maine 04104-3553

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102237
Maine Waste Discharge License (WDL) Application # W-007182-5L-E-R
Final Permit/License

Dear Mr. Green:

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: Fred Gallant (MEDEP); Sandy Lao (USEPA)

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

BANGOR
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(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

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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

PORTLAND WATER DISTRICT	)	MAINE POLLUTANT DISCHARGE
PEAKS ISLAND, PORTLAND,	)	ELIMINATION SYSTEM PERMIT
CUMBERLAND COUNTY, MAINE	)	
PUBLICLY OWNED TREATMENT WORKS	)	AND
#ME0102237	)	WASTE DISCHARGE LICENSE
W007182-5L-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 PORTLAND WATER DISTRICT (PWD), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The Portland Water District (PWD, District) has applied for renewal of Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102237 / Maine Waste Discharge License (WDL) #W007182-5L-D-M, which was issued on August 14, 2002 for a five-year term. The MEPDES Permit / WDL authorized the discharge of up to a monthly average of 0.2 million gallons per day (MGD) of secondary treated municipal sanitary wastewater from the Peaks Island wastewater treatment facility to the marine waters of Casco Bay, Class SB, in Portland, Maine.

PERMIT SUMMARY

This permitting action is similar to the August 14, 2002 MEPDES Permit / Maine WDL in that it is carrying forward the:

1. Monthly average discharge flow limitation of 0.2 MGD;
2. Biochemical oxygen demand (BOD_5) and total suspended solids (TSS) mass and concentration limits;
3. Requirements for a minimum of 85% removal of BOD5 and TSS.
4. BPT based daily maximum limit for settleable solids and testing frequency reduction during the non-chlorination season (October 1 – May 14) of each year;
5. The seasonal monthly average and daily maximum concentration limits for fecal coliform bacteria, consistent with the National Shellfish Sanitation Program;
6. The daily maximum total residual chlorine concentration limit;
7. The pH range limitation of 6.0 – 9.0 standard units and testing frequency reduction during the non-chlorination season (October 1 – May 14) of each year;
8. The previously established minimum monitoring frequency and sample type requirements;
9. Requirements to maintain a current wet weather flow management plan for the facility, with wet weather response operating procedures; and
10. Requirements to maintain a current Operations and Maintenance Plan for the facility.

This permitting action is different from the August 14, 2002 MEPDES Permit / Maine WDL in that it is establishing:

1. A daily maximum discharge flow reporting requirement;
2. Whole effluent toxicity (WET), analytical chemistry, and chemical specific (priority pollutant) testing requirements pursuant to Department rules Chapter 530, *Surface Water Toxics Control Program*, Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, and an April 2006 Permit Modification; and
3. Requirements to report annually on any changes to the influent waste-stream or facility operations that may result in increases in the toxicity of the discharge.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 10, 2007 and revised September 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 Portland Water District, to discharge up to a monthly average flow of 0.2 MGD of secondary treated municipal sanitary wastewater to Casco Bay, 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 September, 2007.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____ for
David P. Littell, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application May 16, 2007.

Date of application acceptance June 5, 2007.

FILED
SEP 17 2007
BOARD OF ENVIRONMENTAL PROT.
STATE OF MAINE

Date filed with Board of Environmental Protection _____\

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 wastewaters from **OUTFALL # 001A** to Casco Bay. 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 (DMR's).

Effluent Characteristic	**Discharge Limitations**						**Minimum Monitoring Requirements**	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	0.20 MGD*[03]*	---	Report MGD *[03]*	---	---	---	Continuous *[99/99]*	Recorder *[RC]*
Biochemical Oxygen Demand (BOD_5) *[00310]*	50 lbs/Day *[26]*	75 lbs/Day *[26]*	83 lbs/Day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24 Hr. Composite *[24]*
BOD5 % Removal (1) *[81010]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Total Suspended Solids (TSS) *[00545]*	50 lbs/Day *[26]*	75 lbs/Day *[26]*	83 lbs/Day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24 Hr. Composite *[24]*
TSS % Removal (1) *[81011]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids *[00545]*	---	---	---	---	---	0.3 ml/L *[25]*	1/Day *[01/01]*	Grab *[GR]*
May 15 – September 30	---	---	---	---	---	0.3 ml/L *[25]*	3/Week (2) *[03/07]*	Grab *[GR]*
October 1 – May 14								
Fecal Coliform Bacteria (3) *[74055]*	---	---	---	15/100 ml(4) *[13]*	---	50/100 ml *[13]*	1/Week *[01/07]*	Grab *[GR]*
Total Residual Chlorine(3,5) *[50060]*	---	---	---	---	---	1.0 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
pH (Std. Units) *[00400]*								
May 15 – September 30	---	---	---	---	---	6.0-9.0 *[12]*	1/Day *[01/01]*	Grab *[GR]*
October 1 – May 14	---	---	---	---	---	6.0-9.0 *[12]*	3/Week(2) *[03/07]*	Grab *[GR]*

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

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(6) **Acute – NOEL**						
Mysidopsis bahia [TDM3E] (Mysid Shrimp)	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Chronic – NOEL						
Arbacia punctulata [TBH3A] (Sea urchin)	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Analytical Chemistry(7,8) [51168]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority Pollutant(8) [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes:

Sampling Locations:

Influent sampling for BOD_5 and TSS shall be collected after the grinder at the headworks of the facility.

Effluent sampling 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. **Percent removal** - The treatment facility shall maintain a minimum of 85 percent removal of both BOD_5 and TSS. The percent removal shall be based on a monthly average calculation using influent and effluent concentrations. The percent removal limit shall be waived when the monthly average influent concentration is less than 200 mg/L. For instances when this occurs, the facility shall report "*NODI-9*" on the monthly Discharge Monitoring Report.

2. **Settleable solids and pH** - A reduction in the monitoring frequencies for settleable solids and pH during the non-summer months is contingent upon the permittee maintaining up-to-date wet weather response operating procedures (see Permit Special Condition H). Settleable Solids and pH sampling events shall be conducted at least 32 hours between events.

3. **Fecal coliform bacteria** - Limits are seasonal and apply between May 15th and September 30th of each calendar year. The Department reserves the right to require disinfection on a year-round basis to protect the health and welfare of the public.

SPECIAL CONDITIONS

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

Footnotes:

4. **Fecal coliform bacteria** – The monthly average limitation is a geometric mean limitation and shall be calculated and reported as such.

5. **Total residual chlorine (TRC)** – Limitations and monitoring requirements for TRC are applicable whenever elemental chlorine or chlorine based compounds are being utilized to disinfect the discharge(s).

6. **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 1.23% and 0.56% 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 81:1 and 180:1 respectively.

   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). Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*). It is noted pursuant to Department rule Chapter 530, *Surface Water Toxics Control Program,* surveillance level WET testing is being waived for the first four years of the term of the permit.

   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 1.23% and 0.56%, 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:

SPECIAL CONDITIONS

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

Footnotes:

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.

7. **Analytical chemistry** – 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.

   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).

8. **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.

SPECIAL CONDITIONS

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

Footnotes:

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 AWQC as established in Department rule Chapter 584. For the purposes of Discharge Monitoring Report (DMR) reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

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 discharge shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.

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

SPECIAL CONDITIONS

C. DISINFECTION

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

D. TREATMENT PLANT OPERATOR

The waste water 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.

E. LIMITATIONS FOR INDUSTRIAL USERS

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

F. NOTIFICATION REQUIREMENT

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

1. Any introduction of pollutants into the waste water collection and treatment system from an indirect discharger in a primary industrial category discharging process waste water.

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

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

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

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

SPECIAL CONDITIONS

G. UNAUTHORIZED DISCHARGERS

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 5, 2007; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

H. WET WEATHER MANAGEMENT PLAN

The treatment facility staff shall maintain a current Wet Weather Flow Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall. The plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures to be adhered to during the events.

The Plan shall include **wet weather response operating procedures**, with a list and locations of alarmed equipment and monitors, and an outline of an alarm response plan identifying person(s) and action(s) to be taken in the event of a problem.

The permittee shall review their plan annually and record any necessary changes to keep the plan up-to-date.

I. OPERATIONS AND 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 their Department inspector for review and comment.

SPECIAL CONDITIONS

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

On or before December 31 of each year *[PCS code 95799]* the permittee is required to file a statement with the Department describing the following.

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

2. Changes in the operation of the treatment works that may increase the toxicity of the discharge; and

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

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

K 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:

Maine Department of Environmental Protection
Southern Maine Regional Office
Bureau of Land and Water Quality
312 Canco Road
Portland, Maine 04103

SPECIAL CONDITIONS

L. 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.

M. 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)

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)	

Flow for Day (MGD)[1] _____ **Flow Avg. for Month (MGD)**[2] _____

Date Sample Collected _____ Date Sample Analyzed _____

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

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

FRESH WATER 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	
	Trout - Acute										
	Trout - Chronic										
	Water Flea - Acute										
	Water Flea - Chronic										
	WET CHEMISTRY										
	pH (S.U.) (9)					(8)					
	Total Organic Carbon (mg/L)					(8)					
	Total Solids (mg/L)										
	Total Suspended Solids (mg/L)										
	Alkalinity (mg/L)					(8)					
	Specific Conductance (umhos)										
	Total Hardness (mg/L)					(8)					
	Total Magnesium (mg/L)					(8)					
	Total Calcium (mg/L)					(8)					
	ANALYTICAL CHEMISTRY [3]										
	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L Acute[6]	Chronic[6]	Health[6]			Reporting Limit Check	Possible Exceedence [7] 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									

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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
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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	sea urchin
	% survival	% 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		sea urchin	
	A-NOEL		C-NOEL	
toxicant / date				
limits (mg/L)				
results (mg/L)				

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

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

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

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: August 10, 2007
Revised: September 10, 2007

MEPDES PERMIT NUMBER: **#ME0102237**

MAINE WDL NUMBER: **#W007182-5L-E-R**

NAME AND ADDRESS OF APPLICANT:

Portland Water District
225 Douglass Street
P.O. Box 3553
Portland, Maine 04104-3553

COUNTY: **Cumberland County**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

Peaks Island Facility
Island Avenue
Portland, Maine 04108

RECEIVING WATER(S)/CLASSIFICATION: **Casco Bay/Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

Michael Greene (207) 774-5961; Robert Waterman (207) 761-8320

1. APPLICATION SUMMARY

a. Application: The Portland Water District (PWD, District) has applied for renewal of Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102237 / Maine Waste Discharge License (WDL) #W007182-5L-D-M, which was issued on August 14, 2002 for a five-year term. The MEPDES Permit / WDL authorized the discharge of up to a monthly average of 0.2 million gallons per day (MGD) of secondary treated municipal sanitary wastewater from the Peaks Island wastewater treatment facility to the marine waters of Casco Bay, Class SB, in Portland, 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 #ME0102237 (same as NPDES permit number) utilized as the primary reference number for the Peaks Island wastewater treatment facility.

b. Conditions: This permitting action is similar to the August 14, 2002 MEPDES Permit / Maine WDL in that it is carrying forward:

1. Monthly average discharge flow limitation of 0.2 MGD;
2. Biochemical oxygen demand (BOD_5) and total suspended solids (TSS) mass and concentration limits;
3. Requirements for a minimum of 85% removal of BOD5 and TSS.
4. BPT based daily maximum limit for settleable solids and testing frequency reduction during the non-chlorination season (October 1 – May 14) of each year;
5. The seasonal monthly average and daily maximum concentration limits for fecal coliform bacteria, consistent with the National Shellfish Sanitation Program;
6. The daily maximum total residual chlorine concentration limit;
7. The pH range limitation of 6.0 – 9.0 standard units and testing frequency reduction during the non-chlorination season (October 1 – May 14) of each year;
8. The previously established minimum monitoring frequency and sample type requirements;
9. Requirements to maintain a current wet weather flow management plan for the facility, with wet weather response operating procedures; and
10. Requirements to maintain a current Operations and Maintenance Plan for the facility.

This permitting action is different from the August 14, 2002 MEPDES Permit / Maine WDL in that it is establishing:

1. A daily maximum discharge flow reporting requirement;
2. Whole effluent toxicity (WET), analytical chemistry, and chemical specific (priority pollutant) testing requirements pursuant to Department rules Chapter 530, *Surface Water Toxics Control Program*, Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, and an April 2006 Permit Modification; and
3. Requirements to report annually on any changes to the influent waste-stream or facility operations that may result in increases in the toxicity of the discharge.

2. PERMIT SUMMARY (cont'd)

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

June 1993 - The Peaks Island secondary wastewater treatment facility began operating, eliminating previously untreated wastewater discharges from the island.

September 23, 1993 – The USEPA issued a renewal of NPDES permit #ME0102237 for a five year term.

September 13, 1996 – The USEPA modified NPDES permit #ME0102237 by changing the testing frequencies for settleable solids, pH, and total residual from daily to 5 days/week for the period of non-chlorination (from September 30 through May 10). The fecal coliform daily maximum limit of 15/100 ml was changed to 50/100 ml.

May 13, 1998 – The PWD applied for renewal of NPDES permit #ME0102237 for the Peaks Island facility. Department files do not indicate a final action on this application.

May 15, 2000 – The Department issued renewal WDL #W007182-5L-C-R for a five year term.

August 14, 2002 - The Department issued WDL #W-007182-5L-D-M / MEPDES Permit #ME0102237 for the discharge of a monthly average of 0.2 MGD of secondary treated municipal wastewater from the Peaks Island facility to Casco Bay incorporating the terms and conditions of the MEPDES permit program into the license. The Permit/WDL was issued for a five-year term.

May 16, 2007 – PWD submitted a timely application for renewal of its WDL / MEPDES Permit. The application was assigned WDL #W-007182-5L-E-R / MEPDES Permit #ME0102237.

d. Source Description: The facility is located on Island Avenue at Welch Street and treats domestic wastewaters from residential sections of Peaks Island. There are no significant industrial users contributing flows greater than 10% of the District's influent flow. The District maintains a separated sewage collection system with no combined sewer overflows. The facility does not receive and treat any septage. Flow to the plant is primarily by gravity transmission, however Peaks Island also has three grinder type pump stations located on opposite ends of the island. The pump stations are located on Centennial Street, Torrington Point, and Ryefield Street. The District is responsible for operations and maintenance of all sewer lines as well as storm drains on the island. See Attachment A of this Fact Sheet for a location map.

2. PERMIT SUMMARY (cont'd)

e. Wastewater Treatment: The Peaks Island wastewater treatment facility began operating in June 1993. The facility is an activated sludge plant utilizing sequencing batch reactor (SBR) technology, chlorination, and dechlorination to provide secondary level treatment of residential wastewater on the island. See Attachment B of this Fact Sheet for a schematic of the treatment facility. Operation is typically automated, but in times of emergency the operations can be performed manually. Wastewater treatment is achieved through cycled batch reaction sequences consisting of: fill, aerate with diffused air, settle, and decant, alternated between two reactor tanks. Effluent is disinfected using a sodium hypochlorite chlorination system and dechlorinated with sodium bisulfate. Treated wastewater is discharged to Casco Bay through Outfall #001A, a 12-inch diameter HDPE pipe extending 555 feet into the bay to a depth of approximately 36 feet at mean low water. The end of the outfall pipe is equipped with an approximately 16.5-foot length of 12-inch diameter HDPE pie with five 3-4-inch diffusers.

The facility has a wet scrubber odor control system. Screenings are transported to the Portland wastewater facility on the mainland at 500 Marginal Way, and ultimately disposed of at the Regional Waste Systems landfill. Sludge is thickened periodically in a rotating drum thickener and then transported to the Portland wastewater facility by vacuum truck and barge.

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., Section 469 indicates that Casco Bay at the point of discharge is classified 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 *Portland – Falmouth Area* (Waterbody ID 804-1, DMR Area 14) listed in Category 5-B-1, Estuarine and Marine Waters Impaired only by Bacteria (TMDL Required). The listing identifies a 12,827.6 acre (20.04 sq.mi.) segment of Class SB/SC waters, with "*4 STP outfalls; Stormwater; Elevated fecals; Nonpoint Source*", last sampled on 2/19/2002.

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 95.03J, Closed Area No. 13-A, Portland Area (Cape Elizabeth to Cumberland), as of November 6, 2006, "*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...Portland Area: inside and shoreward of a line beginning at a red painted post, located on the north shore of Mackworth Cove (Falmouth), then running southeast to the south tip of the most southern island of The Brothers, then continuing east to the northeast tip of Cow Island; AND a line beginning at the northeast tip of Cow Island, then running south to the east tip of Peaks Island (Portland), then continuing south to the green 'C3' navigational buoy (Cape Elizabeth); AND a line beginning at the green 'C3' navigational buoy (Cape Elizabeth), then running west to the southwest tip of McKenney Point*" (see Fact Sheet Attachment A). The 2006 regulation repealed and replaced MeDMR Regulation 95.03C (Closed Area No. 14, Portland-Falmouth Area) promulgated on July 8, 2004. The Department has no information that the Peaks Island 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 Peaks Island facility causes or contributes to non-attainment conditions in the receiving water, this permitting action may be reopened pursuant to Permit Special Condition L and effluent limitations, monitoring and operational requirements, and/or wastewater treatment requirements adjusted accordingly.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

a. Flow – The previous licensing action established a monthly average flow limitation of 0.20 MGD based on the design capacity of the facility. This permitting action is carrying the limitation forward as it remains representative of the design capacity of the treatment facility. This permitting action also establishes a reporting requirement for daily maximum flow, a requirement common to other facility permits and based upon Department best professional judgement (BPJ). A review of the DMR data for the period July 2002 through March 2007 indicates the monthly average flow has ranged from 0.03 MGD to 0.2 MGD with an arithmetic mean of 0.085 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.*
>
> *(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 Section 6 of the previous permitting action, the Department utilized facility outfall/diffuser configuration information, the facility monthly average design flow of 0.20 MGD, and in-stream mixing characteristics determined from modeling and/or field investigation to establish applicable dilution factors (that are being carried forward in this permitting action) as follows::

Acute = 81:1 Chronic = 180:1 Harmonic mean [1] = 540:1

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

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).

c. Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) – The previous permitting action established monthly and weekly average BOD5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L respectively, that are based on secondary treatment requirements in Department rule Chapter 525(3)(III). The maximum daily BOD5 and TSS concentration limits of 50 mg/L were based on a Department best professional judgment of BPT. All three concentration limits are being carried forward in this permitting action, common to all permits for publicly owned treatment works permitted by the Department. The monthly average, weekly average and daily maximum technology based mass limits were based on the monthly average flow limitation of 0.2 MGD and the applicable concentration limits and are also being carried forward in this permitting action. The mass limits are calculated as follows.

Monthly average: (0.2 MGD)(8.34 lbs/gal)(30 mg/L) = 50 lbs/day
Weekly average: (0.2 MGD)(8.34 lbs/gal)(45 mg/L) = 75 lbs/day
Daily maximum: (0.2 MGD)(8.34 lbs/gal)(50 mg/L) = 83 lbs/day

The previous permit also established a calendar year average percent removal of 85 percent for BOD and TSS pursuant to Department Rules Chapter 525(3)(III)(a&b)(3).

The Department reviewed Discharge Monitoring Report (DMR) data for PWD for the period of July 2002 through March 2007 and found the following information:

BOD MASS

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	50	1.0-15.0	3.70
Weekly Average	75	---	---
Daily Maximum	83	1.3-44.0	8.70

BOD CONCENTRATION

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	2.0-12.0	5.23
Weekly Average	45	3.3-32.0	8.97
Daily Maximum	50	4.0-39.0	11.32

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

TSS MASS

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	50	1.0-23.0	3.61
Weekly Average	75	---	---
Daily Maximum	83	1.8-87.0	10.69

TSS CONCENTRATION

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	1.6-11.0	4.75
Weekly Average	45	3.0-36.0	8.97
Daily Maximum	50	3.0-36.0	11.32

This permitting action is carrying forward the requirement of 85% removal for BOD and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3) except in the circumstances where the monthly average influent concentration is less than 200 mg/L. Monitoring frequencies for BOD and TSS of 1/Week in the previous permitting action are being carried forward, and percent removal monitoring frequencies of 1/month established, based on facility effluent quality and Department best professional judgement.

d. Settleable Solids - The previous permitting action established a daily maximum concentration limit of 0.3 ml/L that is being carried forward in this permitting action and is a considered best professional judgement of BPT for secondary treated wastewaters. The previous permit established required monitoring frequencies of 1/day from May 15 – September 30 and a reduced frequency of 3/week from October 1 – May 14, during the non-chlorination season. The monitoring reduction was also based upon the permittee maintaining wet weather response operating procedures and equipment. The Department reviewed DMR data for PWD for the period of July 2002 through March 2007 and found that PWD reported an effluent settleable solids value of 0.0 for all months. This permitting action is carrying forward the settleable solids effluent limit, monitoring frequencies, and wet weather requirements from the previous permit.

e. Fecal coliform bacteria – The previous permitting action established seasonal (May 15th – September 30th) monthly average and daily maximum fecal coliform bacteria limits of 15 colonies/100 ml and 50 colonies/100 ml respectively, that are consistent with the National Shellfish Sanitation Program, and 1/week monitoring requirements. The Department reviewed DMR data for PWD for the period of July 2002 through March 2007 and found the following information:

Value	Limit (x/100ml)	Range (x/100ml)	Average (x/100ml)
Monthly Average	15	1-4.5	2.8
Daily Maximum	50	2-16*	4.6*

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

(* The DMR data indicated unusually high daily maximum values of 88/100 ml in August 2002 and 1200/100 ml in August 2005. As these values were significantly higher than PWD's typical values, they were removed from this analysis of daily maximum range and average.) This permitting action is carrying forward the seasonal effluent limits and monitoring frequency requirements from the previous permitting action. However, the Department reserves the right to impose year-round bacteria limits if necessary to protect the health, safety and welfare of the public.

f. Total Residual Chlorine - The previous permitting action established a daily maximum technology based limit of 1.0 mg/L for the discharge. Limits on total residual chlorine (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:

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	0.013 mg/L	0.0075 mg/L	81:1	180:1	1.0 mg/L	1.35 mg/L

Example calculation: Acute – 0.013 mg/L (81) = 1.0 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. As PWD's acute water quality based limit is equivalent to the BPT limit, the 1.0 mg/L daily maximum limit is being carried forward in this permitting action, as is the 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 to disinfect the discharge(s).

g. pH – The previous permitting action established a BPT pH range limitation of 6.0 –9.0 standard units pursuant to Department rule found at Chapter 525(3)(III)(c). The previous permit established required monitoring frequencies of 1/day from May 15 – September 30 and a reduced frequency of 3/week from October 1 – May 14, during the non-chlorination season. The monitoring reduction was also based upon the permittee maintaining wet weather response operating procedures and equipment. The Department reviewed DMR data for PWD for the period of July 2002 through March 2007 and found that PWD consistently reported daily maximum effluent pH values within the specified range. This permitting action is carrying forward the pH effluent limit range, monitoring frequencies, and wet weather requirements from the previous permit.

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

h. Whole Effluent Toxicity (WET) & Chemical-Specific Testing: Maine law, 38 M.R.S.A., Sections 414-A and 420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department 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, is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics.

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

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

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:

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

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

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

A review of the data on file with the Department for the Peaks Island facility indicates that to date, PWD fulfilled the WET and chemical-specific testing requirements of the former Chapter 530.5 as established in the previous permitting action. Pursuant to the April 10, 2006 Permit Modification for testing, PWD was required to conduct WET testing and Priority Pollutant testing once per year and Analytical Chemistry testing once per quarter during the August 2006 – August 2007 screening year. The Department's records indicate that PWD has conducted and submitted to the Department, WET and Analytical Testing conducted during the second and fourth quarters of 2006 and the first and second quarters of 2007. PWD indicates plans to conduct additional Priority Pollutant and Analytical Chemistry testing during September 2007. The Department finds that PWD has met or exceeded its requirements in these areas. See Attachment C of this Fact Sheet for a summary of the WET test results and Attachment D of this Fact Sheet for a summary of the chemical-specific test dates.

WET test evaluation

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

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

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

On September 10, 2007, the Department conducted a statistical evaluation on the most recent 60 months of WET test results on file with the Department in accordance with the statistical approach cited above. The statistical evaluation indicates the discharge from the permittee's wastewater treatment facility does not exceed or have a reasonable potential to exceed the critical acute (1.23%) or chronic (0.56%) water quality thresholds for any of the WET species tested to date. Therefore, no numeric limitations for any WET species tested to date are being established in this permitting action. It is noted, the critical water quality thresholds expressed in percent (%) were derived as the mathematical inverse of the acute (81:1) and chronic (180:1) dilution factors.

As for testing frequencies, Chapter 530(2)(D)(3)(b) states in part that Level III facilities "*... may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)*". Based on the results of the 09/10/07 statistical evaluation, the permittee qualifies for the testing waiver. Therefore, this permit action establishes a screening level WET testing requirements as follows:

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

Level	WET Testing
III	1 per year

Special Condition J, *Chapter 530 (2)(D)(4) Certification,* of this permitting action requires the permittee to file an annual certification with the Department.

It is noted however that if future WET testing results indicates the discharge exceeds critical water quality thresholds this permit will be reopened pursuant to Special Condition L, *Reopening of Permit For Modification*, of this permit to establish applicable limitations and monitoring requirements.

Chemical specific testing evaluation

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

Chapter 530 §4(C), states "*The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly*

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

affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions." The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations. The Department has very limited information on the background levels of metals in the water column of Casco Bay. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

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

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

As with WET test results, on September 10, 2007, the Department conducted a statistical evaluation on the most recent 60 months of chemical specific test results on file with the Department in accordance with the statistical approach outlined in Chapter 530. The statistical evaluation indicates there are no parameters that exceed or have a reasonable potential to exceed the acute, chronic or human health AWQC.

As for testing frequencies, Chapter 530(2)(D)(3)(b) states in part that Level III facilities "*... may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)*". Based on the results of the 09/10/07 statistical evaluation, the permittee qualifies for the testing waiver. Therefore, this permit action establishes a screening level analytical chemistry and priority pollutant testing requirements as follows:

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

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

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

As with WET testing, Special Condition J, *Chapter 530 (2)(D)(4) Certification*, of this permitting action requires the permittee to file an annual certification with the Department.

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 Portland Press Herald newspaper on or about May 9, 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

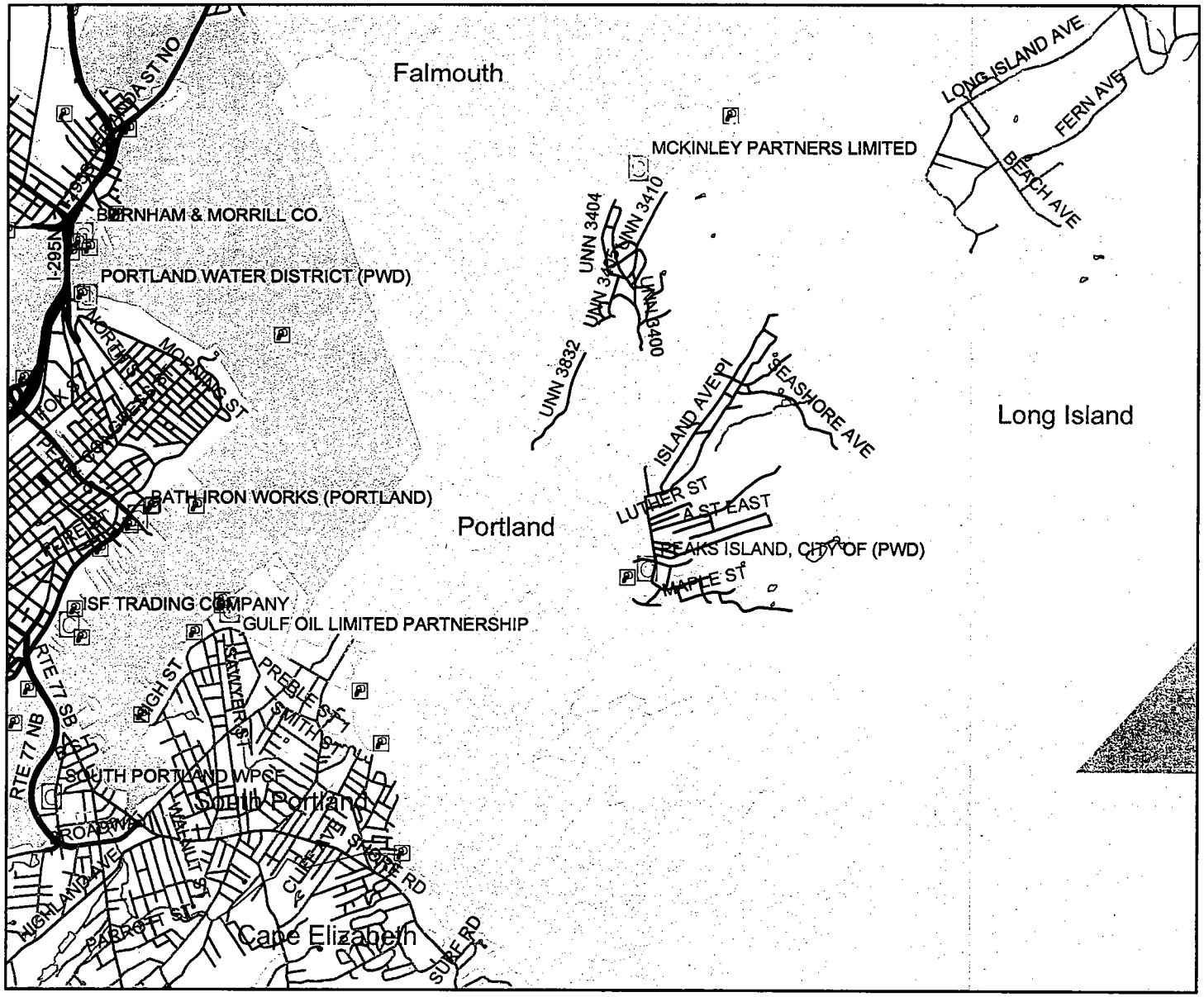
Telephone (207) 287-6114
Fax (207) 287-3435
email: Robert.D.Stratton@maine.gov

10. RESPONSE TO COMMENTS

During the period of August 10, 2007 through September 10, 2007, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit / Maine Waste Discharge License to be issued to the Portland Water District 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

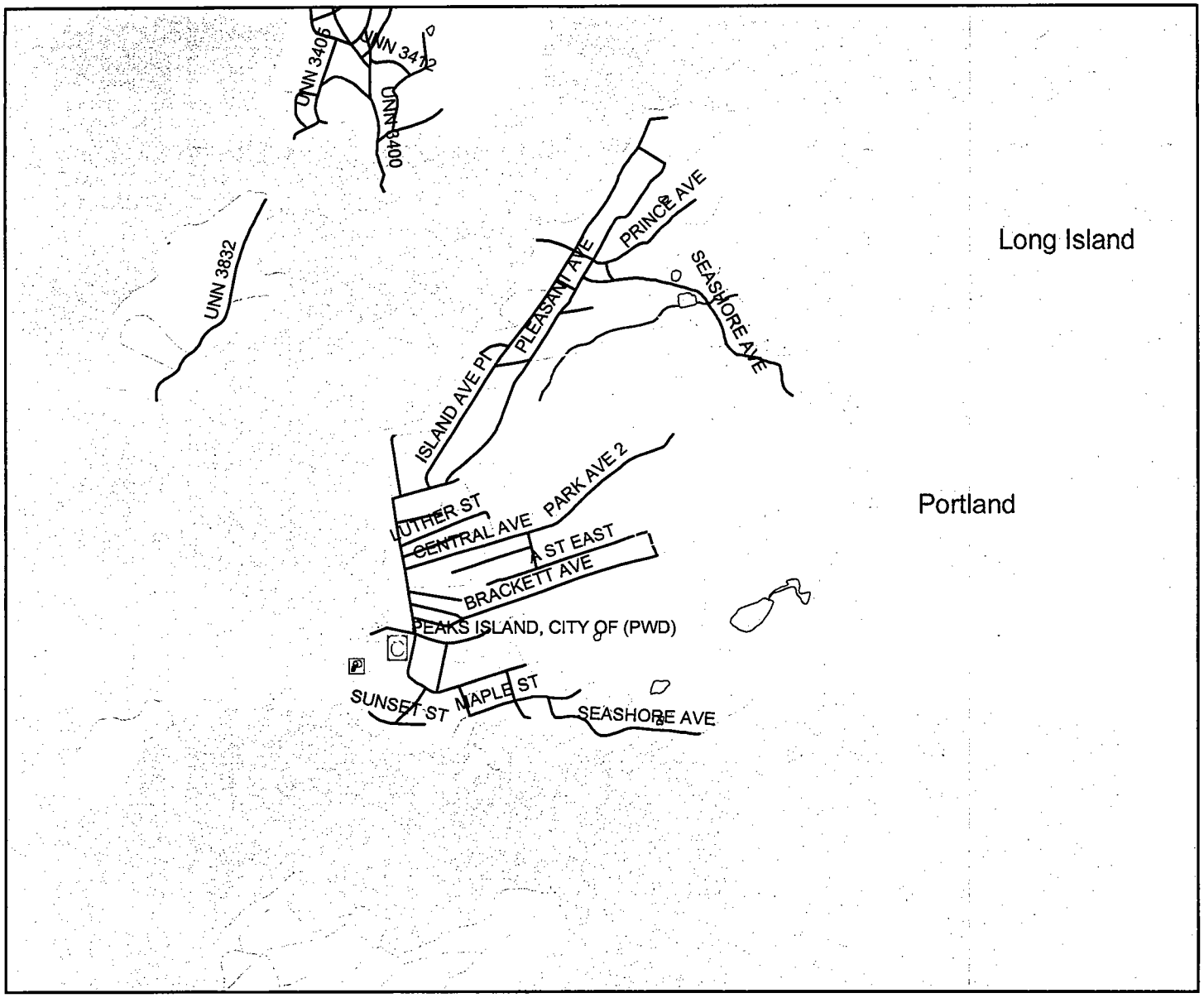
Miles

0 0.2 0.4 0.8 1.2 1.6

Portland Water District
Peaks Island, Maine

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF MAINE



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 0.1 0.2 0.4 0.6 0.8

Portland Water District
Peaks Island, 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 REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. §§ 6172, 6192 and 6193

RULE REPEAL AND PROMULGATION: DMR Regulations: 95.03 CC, Closed Area No. 14-A, Falmouth-Cumberland, promulgated on July 6, 2004; and 95.03 C, Closed Area No. 14, Portland – Falmouth Area, promulgated on July 8, 2004; have been repealed and replaced with the following rule:

TEXT OF RULE: DMR Regulation 95.03 J, Closed Area No. 13-A, Portland Area (Cape Elizabeth to Cumberland)

A. 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 the following areas:

1. Inside and shoreward of a line beginning at the wooden pilings at the end of Stornoway Lane (Cumberland), then running southwest to a point of land immediately south of Underwood Road (Falmouth). This area is classified as "Restricted" and requires a special MDMR permit.

2. Mussel Cove (Falmouth): inside and shoreward of a line beginning at Bartlett Point, then running north to a red painted post, located on the north shore of the mouth of Mussel Cove. This area is classified as "Restricted" and requires a special MDMR permit.

3. Portland Area: inside and shoreward of a line beginning at a red painted post, located on the north shore of Mackworth Cove (Falmouth), then running southeast to the south tip of the most southern island of The Brothers, then continuing east to the northeast tip of Cow Island; AND a line beginning at the northeast tip of Cow Island, then running south to the east tip of Peaks Island (Portland), then continuing south to the green "C 3" navigational buoy (Cape Elizabeth); AND a line beginning at the green "C 3" navigational buoy (Cape Elizabeth), then running west to the southwest tip of McKenney Point.

B. Effective immediately, because of pollution, the shores, flats and waters of Falmouth: inside and shoreward of a line beginning at the point of land immediately south of Underwood Road, then running southeast to the north tip of Clapboard Island; AND a line beginning at the south tip of Clapboard Island, then running southwest to the south tip of the most southern island of The Brothers, then continuing northwest to a red painted post on the north shore of Mackworth Cove; have been classified as "Conditionally Approved," and shall be closed to the harvest of clams, quahogs, oysters and mussels from May 1 through November 14.

EFFECTIVE DATE: November 6, 2006 EFFECTIVE TIME: 10:30 AM

AGENCY CONTACT PERSON: Amy M. Fitzpatrick
Department of Marine Resources
194 McKown Point Road
W. Boothbay Harbor, Me 04575
http://www.maine.gov/dmr/rm/public_health/closures/closedarea.htm

PORTLAND PRESS HERALD
November 9, 2006

STATEMENT OF FACT AND POLICY

The Commissioner of the Maine Department of Marine Resources repeals DMR Regulations: 95.03 CC, Closed Area No. 14-A, Falmouth-Cumberland, promulgated on July 6, 2004; and 95.03 C, Closed Area No. 14, Portland – Falmouth Area, promulgated on July 8, 2004; and replaces them with a new rule. This new rule administratively combines the areas previously described in Closed Areas No. 14-A and 14 and places them in this legal notice; and, due to water quality, reclassifies the area near Stornoway Lane as Restricted.

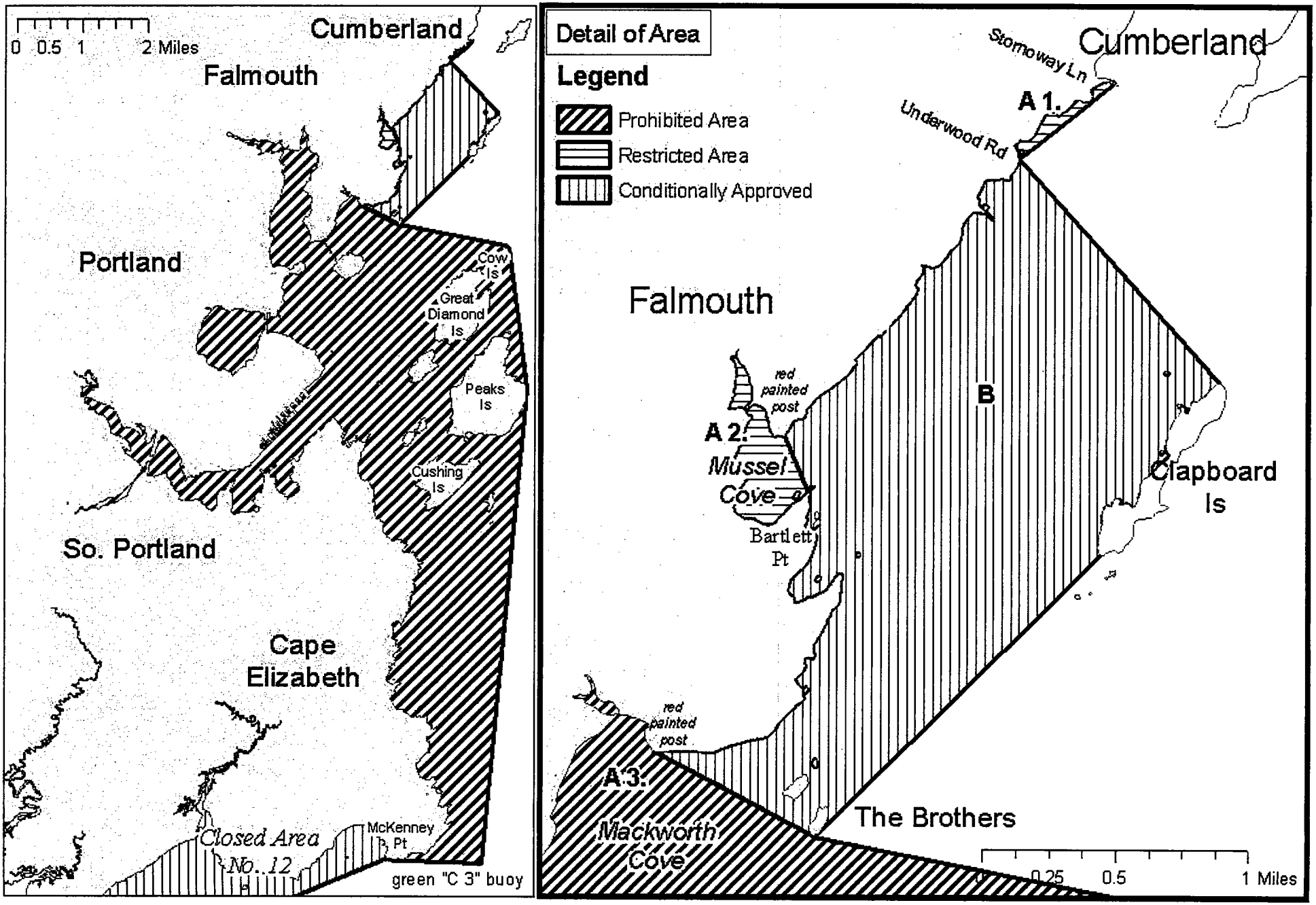
DAVID ETNIER
DEPUTY COMMISSIONER

Maine Department of Marine Resources

Pollution Closed Area No. 13-A

11/6/06

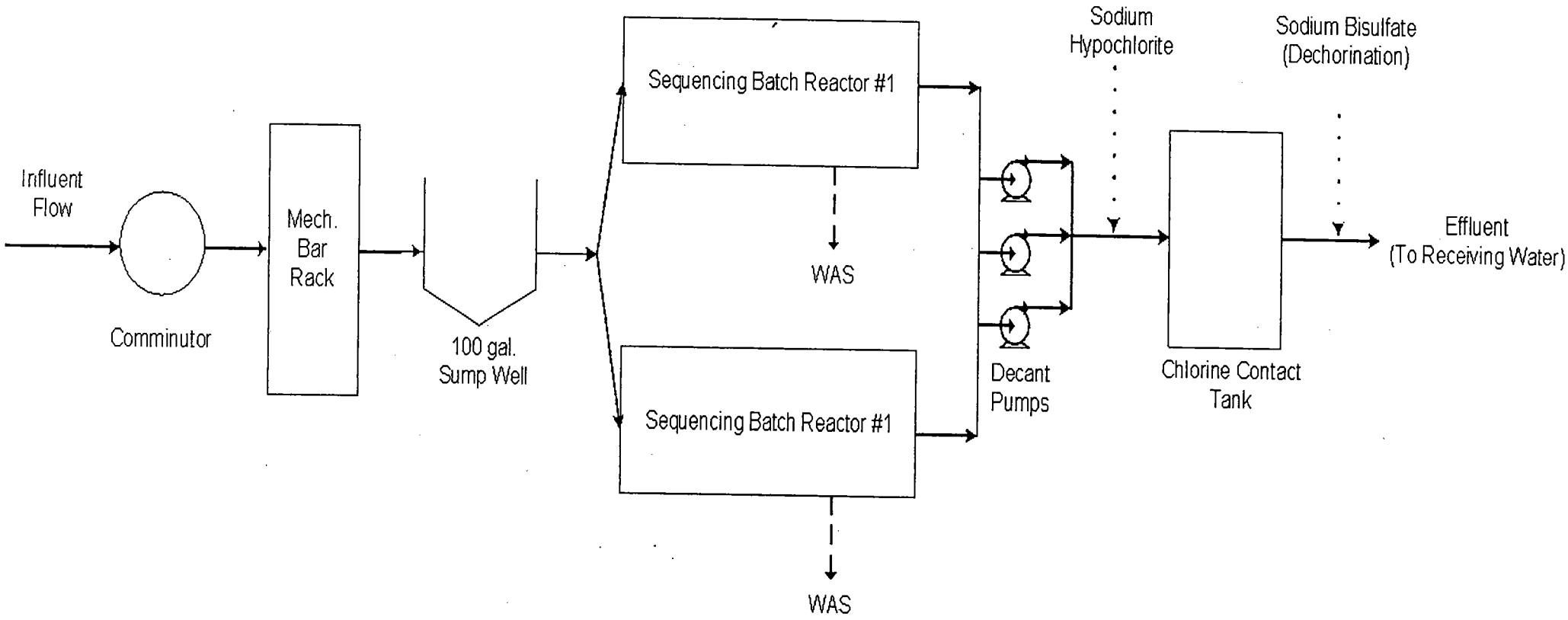
Portland Area (Cape Elizabeth to Cumberland)



ATTACHMENT B

(Facility Site Plans)

Portland Water District - Peaks Island Wastewater Treatment Facility



ATTACHMENT C

(Whole Effluent Toxicity Reports)

Species	Test	Test Result %	Sample Date
MYSID SHRIMP	A_NOEL	15.0	06/04/1996
MYSID SHRIMP	LC50	27.8	06/04/1996
SILVER SIDE	A_NOEL	100	06/04/1996
SILVER SIDE	LC50	>100	06/04/1996
MYSID SHRIMP	A_NOEL	25	09/10/1996
MYSID SHRIMP	LC50	>100	09/10/1996
SILVER SIDE	A_NOEL	100	09/10/1996
SILVER SIDE	LC50	>100	09/10/1996
MYSID SHRIMP	A_NOEL	<4.8	03/18/1997
MYSID SHRIMP	LC50	>77.0	03/18/1997
SILVER SIDE	A_NOEL	77.0	03/18/1997
SILVER SIDE	LC50	>77.0	03/18/1997
MYSID SHRIMP	A_NOEL	77.0	09/15/1997
MYSID SHRIMP	LC50	>77.0	09/15/1997
SILVER SIDE	A_NOEL	77.0	09/15/1997
SILVER SIDE	LC50	>77.0	09/15/1997
MYSID SHRIMP	A_NOEL	71.0	03/11/1998
MYSID SHRIMP	LC50	>71.0	03/11/1998
SILVER SIDE	A_NOEL	71.0	03/11/1998
SILVER SIDE	LC50	>71.0	03/11/1998
MYSID SHRIMP	A_NOEL	100	09/23/1998
MYSID SHRIMP	LC50	>100	09/23/1998
SILVER SIDE	LC50	>100	09/23/1998
MYSID SHRIMP	A_NOEL	100	03/09/1999
MYSID SHRIMP	LC50	>100	03/09/1999
SILVER SIDE	A_NOEL	100	03/09/1999
SILVER SIDE	LC50	>100	03/09/1999
MYSID SHRIMP	A_NOEL	100.0	09/07/1999
MYSID SHRIMP	LC50	>100.0	09/07/1999
SILVER SIDE	A_NOEL	100.0	09/07/1999
SILVER SIDE	LC50	>100.0	09/07/1999
MYSID SHRIMP	A_NOEL	41.8	03/22/2000
MYSID SHRIMP	LC50	>100.0	03/22/2000
SILVER SIDE	A_NOEL	100.0	03/22/2000
SILVER SIDE	LC50	>100.0	03/22/2000
MYSID SHRIMP	A_NOEL	50	09/10/2000
MYSID SHRIMP	LC50	>100	09/10/2000
SEA URCHIN	C_NOEL	100	09/10/2000
SILVER SIDE	A_NOEL	100	09/10/2000
SILVER SIDE	C_NOEL	100	09/10/2000
SILVER SIDE	LC50	>100	09/10/2000
MYSID SHRIMP	A_NOEL	100	03/20/2001

Species	Test	Test Result %	Sample Date
MYSID SHRIMP	LC50	>100	03/20/2001
SILVER SIDE	A_NOEL	100	03/20/2001
SILVER SIDE	LC50	>100	03/20/2001
MYSID SHRIMP	A_NOEL	81.3	09/23/2002
MYSID SHRIMP	LC50	>100	09/23/2002
SILVER SIDE	A_NOEL	>100	10/07/2002
SILVER SIDE	LC50	>100	10/07/2002
MYSID SHRIMP	A_NOEL	>100	08/17/2003
MYSID SHRIMP	LC50	>100	08/17/2003
SEA URCHIN	C_NOEL	100	08/17/2003
SILVER SIDE	A_NOEL	>100	08/17/2003
SILVER SIDE	C_NOEL	100	08/17/2003
SILVER SIDE	LC50	>100	08/17/2003
MYSID SHRIMP	A_NOEL	>100	09/28/2004
MYSID SHRIMP	LC50	>100	09/28/2004
SEA URCHIN	C_NOEL	100	09/28/2004
SILVER SIDE	A_NOEL	>100	09/28/2004
SILVER SIDE	C_NOEL	100	09/28/2004
SILVER SIDE	LC50	>100	09/28/2004
MYSID SHRIMP	A_NOEL	>100	09/27/2005
MYSID SHRIMP	LC50	>100	09/27/2005
SEA URCHIN	C_NOEL	100	09/27/2005
SILVER SIDE	A_NOEL	>100	09/27/2005
SILVER SIDE	C_NOEL	100	09/27/2005
SILVER SIDE	LC50	>100	09/27/2005
MYSID SHRIMP	A_NOEL	>100	06/19/2006
SEA URCHIN	C_NOEL	100	12/06/2006

ATTACHMENT D

(Chemical Specific Testing Reports)

Sample Date: 09/23/2001
Plant flows provided

otal Tests:	132	mon.(MGD)= 0.052
issing Compounds:	1	day(MGD)= 0.050
ests With High DL:	2	

M = 0 V = 0 A = 0
BN = 2 P = 0 other = 0

Sample Date: 03/17/2002
Plant flows provided

otal Tests:	138	mon.(MGD)= 0.114
issing Compounds:	1	day(MGD)= 0.080
ests With High DL:	0	

M = 0 V = 0 A = 0
BN = 0 P = 0 other = 0

Sample Date: 08/17/2003
Plant flows provided

otal Tests:	132	mon.(MGD)= 0.043
issing Compounds:	1	day(MGD)= 0.042
ests With High DL:	2	

M = 0 V = 0 A = 0
BN = 2 P = 0 other = 0

Sample Date: 09/28/2004
Plant flows provided

otal Tests:	134	mon.(MGD)= 0.076
issing Compounds:	1	day(MGD)= 0.073
ests With High DL:	2	

M = 0 V = 0 A = 0
BN = 2 P = 0 other = 0

Sample Date: 09/27/2005
Plant flows provided

otal Tests:	137	mon.(MGD)= 0.031
issing Compounds:	1	day(MGD)= 0.032
ests With High DL:	2	

M = 0 V = 0 A = 0
BN = 2 P = 0 other = 0

PP Data for "Hits" Only

WD PEAKS ISLAND
ASCO BAY

HLOROFORM
DL = 5.0 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	44.000000	OK	08/17/2003	10/30/2003
<	2.000000	OK	03/17/2002	06/03/2002
<	5.000000	OK	09/28/2004	12/02/2004
<	5.000000	OK	09/27/2005	02/06/2006
<	5.000000	OK	09/23/2001	01/18/2002

ICHLOROBROMOMETHANE
DL = 3.0 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	10.000000	OK	08/17/2003	10/30/2003
<	2.000000	OK	03/17/2002	06/03/2002
<	3.000000	OK	09/23/2001	01/18/2002
<	3.000000	OK	09/27/2005	02/06/2006
<	3.000000	OK	09/28/2004	12/02/2004

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.
