STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

Mr. Peter Owen
Public Works Director, City of Bath
55 Front Street
Bath, ME. 04530

October 16, 2009

Mr. Chris Wallace
Superintendent, BWPCF
1 Town Landing
Bath, ME. 04530

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100021
Maine Waste Discharge License (WDL) Application #W002678-6D-G-R
Final Permit

Dear Mr. Owen & Mr. Wallace:

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.*"

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

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

Enc.
cc: Stuart Rose, DEP/CMRO
Sandy Mojica, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

CITY OF BATH	) MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS	) ELIMINATION SYSTEM PERMIT
BATH, SAGADAHOC COUNTY	) AND
ME0100021	) WASTE DISCHARGE LICENSE
W002678-6D-G-R **APPROVAL**	) **RENEWAL**

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, §1251, et seq., and Maine law 38 M.R.S.A., §414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the CITY OF BATH (City hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The City has filed a timely and complete application with the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100021/Waste Discharge License (WDL)#W002678-5L-F-R, which was issued by the Department on October 26, 2004 and is scheduled to expire on October 26, 2009. It is noted the 10/26/04 was subsequently modified on April 26, 2006 to incorporate the monitoring requirements established in Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, promulgated on October 12, 2005. The 10/26/04 permitting action authorized the monthly average discharge of up to 3.5 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW), as well as the discharge of an unspecified quantity of primary treated wastewater from a secondary treatment bypass structure at the facility, and an unspecified quantity of excess combined sanitary and storm water during wet weather events from four (4) combined sewer overflow (CSO) outfalls to the Kennebec River, Class SB, in Bath, Maine.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the 10/26/04 MEPDES permit except that it is reducing the monitoring frequency for whole effluent toxicity (WET) and chemical specific testing and changing the numeric monthly average flow limitation to a “report” only requirement.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated September 11, 2009, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

For discharge of primary and secondary treated wastewaters from the wastewater treatment facility:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.

2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with State law.

3. The provisions of the State's antidegradation policy, 38 M.R.S.A. §464(4)(F), will be met, in that:

   (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;

   (b) Where high quality waters of the State constitute an outstanding 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 water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharges (including the four CSO points) will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S.A., §414-A(1)(D).

ACTION

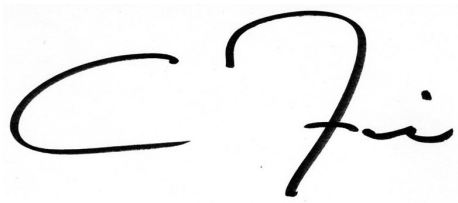
THEREFORE, the Department APPROVES the above noted application of the CITY OF BATH to discharge a monthly average of up to 3.5 MGD of secondary treated sanitary wastewater, an unspecified quantity of primary treated wastewater from a secondary treatment bypass structure at the facility, and an unspecified quantity of untreated excess combined sanitary and storm water from four (4) combined sewer overflow (CSO) outfalls during wet weather events to the Kennebec River, Class SB, in Bath, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. "*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,*" revised July 1, 2002, copy attached.

2. The attached Special Conditions, including any effluent limitations and monitoring requirements.

3. This permit expires five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2009.10.16 10:13:58 -04'00'

Date of initial receipt of application: August 13, 2009 .
Date of application acceptance: August 14, 2009 .

This Order prepared by GREGG WOOD, BUREAU OF LAND & WATER QUALITY
ME0100021 2009 10/16/09

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Secondary Treated Waste Water: Beginning the effective date of this permit, the permittee is authorized to discharge **secondary treated sanitary wastewater from Outfall #001** to the Kennebec River. Such discharges shall be limited and monitored by the permittee as specified below[(1)]:

Effluent Characteristic	Discharge Limitations			Minimum Monitoring Requirements				
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	Report MGD *[03]*	--	Report MGD *[03]*	--	--	--	Continuous *[99/99]*	Recorder *[RC]*
BOD_5 *[00310]*	876 lbs./day *[26]*	1,314 lbs./day *[26]*	Report lbs./day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	3/Week *[03/07]*	24-Hour Composite *[24]*
BOD_5 %Removal[(2)] *[81010]*	--	--	--	85% *[23]*	--	--	1/Month *[01/30]*	Calculate *[CA]*
TSS *[00530]*	876 lbs./day *[26]*	1,314 lbs./day *[26]*	Report lbs./day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	3/Week *[03/07]*	24-Hour Composite *[24]*
TSS % Removal[(2)] *[81011]*	--	--	--	85% *[23]*	--	--	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids *[00545]*	--	--	--	--	--	0.3 ml/L *[25]*	1/Day *[01/01]*	Grab *[GR]*
Fecal Coliform Bacteria[(3)] ***(Year-round)*** *[74055]*	--	--	--	15/100 ml[(4)] *[13]*	--	50/100 ml *[13]*	3/Week *[03/07]*	Grab *[GR]*
Total Residual Chlorine[(3)] *[00665]*	--	--	--	0.1 mg/L *[19]*	--	0.3 mg/L *[19]*	2/Day *[02/01]*	Grab *[GR]*
pH *[00400]*	--	--	--	--	--	6.0 – 9.0 SU *[12]*	1/Day *[01/01]*	Grab *[GR]*

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports.

Footnotes: See Pages 9 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

1. Secondary Treated Waste Water:

SCREENING LEVEL TESTING

Beginning 12 months prior to the expiration date of this permit 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[5] **Acute – NOEL** *Mysidopsis bahia* [TDM3E] *(Mysid Shrimp)*	---	---	---	Report % [23]	1/Year [01YR]	Composite [24]
Chronic – NOEL *Arbacia punctulata* [TBH3A] *(Sea urchin)*	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Priority pollutant[6] [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]
Analytical chemistry[7] [50008]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]

Footnotes: See Pages 8 through 10 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

2. Primary Treatment of CSOs: Beginning the effective date of this permit the permittee is authorized to discharge **primary treated and disinfected combined sanitary and storm water from Outfall #002** which is then conveyed to the Kennebec River via Outfall #001. Such discharges may only occur in response to wet weather events when the influent to the waste water treatment facility exceeds a peak hourly flow rate of 4,861 gallons per minute (7.0 MGD) or in accordance with the most current approved Wet Weather Flow Management Plan. Approval of said bypass will be reviewed and may be modified or terminated pursuant to Special Condition O, *Reopening of Permit For Modification,* if there is a substantial change in the volume or character of pollutants in the collection/treatment system, if new information regarding CSO management becomes available or if necessary for implementation of the most current approved CSO Master Plan. Bypasses shall be monitored and reported as specified below. **(1)(8):**

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements			
	Monthly Average	**Daily Maximum**	**Monthly Average**	**Daily Maximum**	**Measurement Frequency**	**Sample Type**
Flow *[50050]*	Report Total MGD*[03]*	Report MGD *[03]*	--	--	Continuous *[99/99]*	Recorder *[RC]*
Surface Loading Rate(9) *[50997]*	--	Report gpd/sf *[07]*	--	--	1/Discharge Day(10) *[01/DD]*	Calculate *[CA]*
Overflow Occurrences(11) *[74062]*	--	--	Report # of Days *[93]*	--	1/Discharge Day(10) *[01/DD]*	Record Total *[RT]*
BOD_5 *[00310]*	--	--	--	Report mg/L *[19]*	1/Discharge Day(10) *[01/DD]*	24-Hour Composite *[24]*
BOD_5 Percent Removal(12) *[81011]*	--	--	Report % *[23]*	Report mg/L *[19]*	1/Discharge Day(10) *[01/DD]*	Calculate *[CA]*
TSS *[00530]*	--	--	--	Report mg/L *[19]*	1/Discharge Day(10) *[01/DD]*	24-Hour Composite *[24]*
TSS Percent Removal(12) *[81011]*	--	--	Report % *[23]*	Report mg/L *[19]*	1/Discharge Day(10) *[01/DD]*	Calculate *[CA]*
Fecal Coliform Bacteria(3) *[74055]*	--	--	--	200/100 ml *[13]*	1/Discharge Day(10) *[01/DD]*	Grab(13) *[GR]*
Total Residual Chlorine(3) *[00665]*	--	--	--	1.0 mg/L *[19]*	1/Discharge Day(10) *[01/DD]*	Grab(13) *[GR]*

Footnotes: See Pages 8 through 10 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes:

Sampling –Sampling and analysis must be conducted in accordance with; a) methods approved in 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. 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. **Sampling locations –** Monitoring for compliance purposes shall be performed as follows:

   Effluent receiving secondary treatment shall be sampled for BOD_5, TSS, WET testing, chemical specific testing, total residual chlorine, pH, settleable solids and fecal coliform bacteria at the drop box prior to discharge to the river.

   Effluent receiving primary treatment shall be sampled for BOD_5, TSS, total residual chlorine, pH, settleable solids and fecal coliform bacteria and shall be collected at the effluent end of the CSO structure, after dechlorination, but prior to combining with the final effluent.

   Influent sampling for BOD_5 and TSS shall be sampled at the discharge of the headworks, after screening but before de-gritting.

2. **Percent Removal –** The treatment facility shall maintain a minimum of 85 percent removal of both biochemical oxygen demand and total suspended solids for all flows receiving secondary treatment. The percent removal shall be calculated based on influent and effluent concentration values. The percent removal shall be waived when the monthly average influent concentration is less than 200 mg/L. For instances when this occurs, the facility shall report **"NODI-9"** for this parameter on the monthly Discharge Monitoring Report (DMR).

3. **Bacteria and TRC Limits –** Fecal coliform bacteria and total residual chlorine (TRC) limits and monitoring requirements are in effect year-round at the request of the Maine Department of Marine Resources in order to protect local shellfish resources.

SPECIAL CONDITIONS

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

Footnotes:

4. **Bacteria Reporting –** The monthly average fecal coliform bacteria limitation is a geometric mean limitation and sample results shall be reported as such.

5. **Whole Effluent Toxicity Testing** Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic thresholds of 7.1% and 2.7%, 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.

   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) on the mysid shrimp and sea urchin. Surveillance level testing has been waived pursuant to Department rule 06-096 CMR Chapter 530 Section D(3)(b).

   Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, the permittee may review the toxicity reports for up to 10 business days after receiving the test results from the laboratory conducting the testing before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds of 2.9% and 0.35%, respectively.

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

   a. U.S. Environmental Protection Agency. 2002. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 5th ed. EPA 821-R-02-012. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., October 2002 (the acute method manual)

   b. U.S. Environmental Protection Agency. 2002. *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms*, 3rd ed. EPA 821-R-02-014. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., October 2002 (the marine chronic method manual)

   The permittee is also required to analyze the effluent for the nine (9) parameters specified in the WET chemistry section, and the twelve (12) parameters specified in the analytical chemistry section of the form in Attachment A of this permit each time a WET test is performed.

SPECIAL CONDITIONS

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

6. **Priority Pollutant Testing –** Priority pollutant testing refers to analysis for levels of priority pollutants listed in Department rule 06-096 CMR Chapter 525 Section 4.VI. **Screening level testing shall be conducted once per year (1/Year) beginning 12 months prior to permit expiration and every five years thereafter**. Surveillance level priority pollutant testing is not required pursuant to Department rule 06-096 CMR Chapter 530 Section 2.D.

7. **Analytical Chemistry** – Refers to a suite of chemical tests that include 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 shall be conducted once per quarter(1/Quarter) for four consecutive calendar quarters beginning 12 months prior to permit expiration and every five years thereafter.**

   Analytical chemistry and priority pollutant testing shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests, when applicable, and shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve the most current minimum reporting levels of detection as specified by the Department. See Attachment A of this permit for a list of the Department's most current reporting limits (RLs)

   Analytical chemistry and priority pollutant 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 laboratory reports for up to 10 business days after receiving the test results from the laboratory conducting the testing before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedences of the acute, chronic or human health AWQC as established in Chapter 584. For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

8. **Primary Treated Waste water** – Discharges via Outfall #002 are authorized only for those flows in excess of the capacity of the secondary treatment system (Outfall #001) and consistent with an approved Wet Weather Flow Management Plan.

9. **Surface Loading Rate** – For the purposes of this permitting action is defined as the average hourly rate per overflow occurrence in a discharge day. The permittee should provide this information to establish data on the effectiveness of peak flows receiving primary treatment only.

10. **Discharge Day** – A discharge day is any portion of a calendar day in which a discharge of treated excess combined sanitary and storm waters from Outfall #002 is occurring. For discharges exceeding one calendar day in duration, sampling shall be performed each day of the event according to the measurement frequency specified. For example, if a discharge event covers all or part of three calendar days, the permittee shall take three composite samples for BOD_5 and TSS, initiating samples at the start of the discharge event and each subsequent calendar day and terminating samples at the end of the calendar day or at the end of the discharge event.

SPECIAL CONDITIONS

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

Footnotes:

11. **Overflow occurrence** – An overflow occurrence is defined as the period of time between initiation of flow from the primary bypass and cessation of the discharge from the primary bypass. Overflow occurrences are reported in discharge days.

    Multiple intermittent overflow occurrences in one discharge day are reported as one overflow occurrence and are sampled according to the measurement frequency specified. One composite sample for BOD_5 and TSS shall be collected per discharge day and shall be flow-proportioned from each intermittent overflow during that 24-hour period. Only one grab sample for fecal coliform bacteria and total residual chlorine is required to be collected per discharge day.

    For overflow occurrences exceeding one day in duration, sampling shall be performed each day of the event according to the measurement frequency specified. For example, if an overflow occurs for all or part of three discharge days, the permittee shall take three composite samples for BOD_5 and TSS, initiating samples at the start of the overflow and each subsequent discharge day thereafter and terminating samples at the end of the discharge day or the end of the overflow occurrence. Samples shall be flow-proportioned.

12. **BOD_5 and TSS Removal** - The permittee shall analyze both the influent and effluent of the primary clarifiers for BOD5 and TSS during the discharge of treated excess combined sewer waste water and report the percent (%) removal on the monthly Discharge Monitoring Report (DMR). Composite samples for BOD_5 and TSS are not required to be collected when Outfall #002 (CSO-related bypass of secondary treatment) is active for a single continuous discharge event lasting less than 60 minutes or during intermittent discharge events over a course of the 24-hour reporting period lasting less than 120 minutes. As an attachment to the DMR, the permittee shall report the individual BOD5 and TSS test results used to calculate the percent removal rates reported. For the purpose of calculating BOD_5 and TSS percent (%) removals on the treated excess combined sewer waste water, the influent sample shall only be collected during overflow occurrences.

    For facilities whose normal staffing hours do not include weekends, or whose weekend staffing time is limited to minimum facility oversight (i.e. permit-required daily grab sample analysis, setting up composite samplers, or performing routine observations of treatment plant functions), BOD_5 /Total Suspended Solids composite samples shall be collected after one hour before the end of normal staffing hours on Friday through 22 hours before normal staffing time on Monday may be held beyond the maximum holding time of twenty-four hours and analyzed as soon as possible during staffed hours on the Monday following the weekend. Composite samples with extended holding times must remain refrigerated until analyzed, and must conform to any other bypass sampling procedures as defined in this document. Any reported extended holding time composite sample results must be flagged to distinguish them from samples that were analyzed within the proper holding time.

SPECIAL CONDITIONS

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

Footnotes:

13. **Grab Sample** – Grab samples for fecal coliform bacteria and total residual chlorine are not required when Outfall #002 is active outside of the normal wastewater treatment facility staffing hours or if during normal staffing hours for a single continuous discharge event lasting less than 60 minutes or during intermittent discharge events over a course of a 24-hour period lasting less than 120 minutes.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.

2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.

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

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

C. DISINFECTION

If chlorination is used as the 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 imposed total residual chlorine (TRC) limit cannot be achieved 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 provide a TRC concentration that will effectively reduce fecal coliform bacteria levels to or below those specified in Special Condition A, "*Effluent Limitation and Monitoring Requirements*," above.

D. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a **Grade IV** certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S.A., Sections 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the permittee may engage the services of the contract operator.

SPECIAL CONDITIONS

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. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit accepted for processing on 3/17/09; 2) the terms and conditions of this permit; and 3) only from Outfalls #001, #002 and the four (4) CSO's listed in Special Condition K, *Combined Sewer Overflows (CSO's)* of this permit. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

G. NOTIFICATION REQUIREMENT

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

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

2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change shall include information on:

   (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and

   (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

SPECIAL CONDITIONS

H. OPERATION & MAINTENANCE (O&M) PLAN

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and systems of transport, 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 USEPA personnel upon request.

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

I. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall have a current written 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 during the events.

The permittee shall review their plan at least annually and record any necessary changes to keep the plan up to date. Any changes to the plans must be submitted to the Department for review and approval.

SPECIAL CONDITIONS

J. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

During the effective period of this permit, the permittee is authorized to receive and introduce into the treatment process or solids handling stream up to **a daily maximum of 10,000 gallons per day** of transported wastes, subject to the following terms and conditions.

1. **"**Transported wastes" means any liquid non-hazardous waste delivered to a wastewater treatment facility by a truck or other similar conveyance that has different chemical constituents or a greater strength than the influent described on the facility's application for a waste discharge license. Such wastes may include, but are not limited to septage, industrial wastes or other wastes to which chemicals in quantities potentially harmful to the treatment facility or receiving water have been added.

2. The character and handling of all transported wastes received must be consistent with the information and management plans provided in application materials submitted to the Department.

3. At no time shall the addition of transported wastes cause or contribute to effluent quality violations. Transported wastes may not cause an upset of or pass through the treatment process or have any adverse impact on the sludge disposal practices of the wastewater treatment facility.

   Wastes that contain heavy metals, toxic chemicals, extreme pH, flammable or corrosive materials in concentrations harmful to the treatment operation must be refused. Odors and traffic from the handling of transported wastes may not result in adverse impacts to the surrounding community. If any adverse effects exist, the receipt or introduction of transported wastes into the treatment process or solids handling stream shall be suspended until there is no further risk of adverse effects.

4. The permittee shall maintain records for each load of transported wastes in a daily log which shall include at a minimum the following.

   (a) The date;
   (b) The volume of transported wastes received;
   (b) The source of the transported wastes;
   (d) The person transporting the transported wastes;
   (e) The results of inspections or testing conducted;
   (f) The volumes of transported wastes added to each treatment stream; and
   (g) The information in (a) through (d) for any transported wastes refused for acceptance.

   These records shall be maintained at the treatment facility for a minimum of five years.

5. The addition of transported wastes into the treatment process or solids handling stream shall not cause the treatment facility's design capacity to be exceeded. If, for any reason, the treatment process or solids handling facilities become overloaded, introduction of transported wastes into the treatment process or solids handling stream shall be reduced or terminated in order to eliminate the overload condition.

SPECIAL CONDITIONS

J. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

6. Holding tank wastewater from domestic sources to which no chemicals in quantities potentially harmful to the treatment process have been added shall not be recorded as transported wastes but should be reported in the treatment facility's influent flow.

7. During wet weather events, transported wastes may be added to the treatment process or solids handling facilities only in accordance with a current Wet Weather Flow Management Plan approved by the Department pursuant to Special Condition I that provides for full treatment of transported wastes without adverse impacts.

8. In consultation with the Department, chemical analysis is required prior to receiving transported wastes from new sources that are not of the same nature as wastes previously received. The analysis must be specific to the type of source and designed to identify concentrations of pollutants that may pass through, upset or otherwise interfere with the facility's operation.

9. Access to transported waste receiving facilities may be permitted only during the times specified in the application materials and under the control and supervision of the person responsible for the wastewater treatment facility or his/her designated representative.

10. The authorization in Special Condition I is subject to annual review and, with notice to the permittee and other interested parties of record, may be suspended or reduced by the Department as necessary to ensure full compliance with Chapter 555 of the Department's rules and the terms and conditions of this permit.

K. CONDITIONS FOR COMBINED SEWER OVERFLOWS (CSOs)

1. Pursuant to Chapter 570 of Department Rules, *Combined Sewer Overflow Abatement*, the permittee is authorized to discharge from the following locations of CSOs (stormwater and sanitary wastewater) subject to the conditions and requirements herein.

Outfall #	Location	Receiving Water & Class
003	Rose Street Pump Station	Kennebec River, SB
004	Pleasant Avenue Pump Station	Kennebec River, SB
005	Commercial Street Pump Station	Kennebec River, SB
008	Harward Street Pump Station	Kennebec River, SB

2. Prohibited Discharges

   a) The discharge of dry weather flows is prohibited. All such discharges shall be reported to the Department in accordance with Standard Condition D (1) of this permit.

   b) No discharge shall occur as a result of mechanical failure, improper design or inadequate operation or maintenance.

SPECIAL CONDITIONS

K. CONDITIONS FOR COMBINED SEWER OVERFLOWS (CSOs) (cont'd)

c) No discharges shall occur at flow rates below the maximum design capacities of the wastewater treatment facility, pumping stations or sewerage system.

3. Narrative Effluent Limitations

a) The effluent shall not contain a visible oil sheen, settled substances, foam, or floating solids at any time that impair the characteristics and designated uses ascribed to the classification of the receiving waters.

b) The effluent shall not contain materials in concentrations or combinations that are hazardous or toxic to aquatic life; or which would impair the usage designated by the classification of the receiving waters.

c) The discharge shall not impart color, turbidity, toxicity, radioactivity or other properties that cause the receiving waters to be unsuitable for the designated uses and other characteristics ascribed to their class.

d) Notwithstanding specific conditions of this permit, the effluent by itself or in combination with other discharges shall 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.

4. CSO Master Plan (see Sections 2 and 3 of Chapter 570 Department Rules)

The permittee shall implement CSO control projects in accordance with an approved CSO Master Plan and abatement schedule. The CSO Master Plan entitled, *"City of Bath – Revised 2006 Combined Sewer Overflow Master Plan Update,"* dated July 2007, and the document entitled, *"Recommended Action Plan and City of Bath CSO Projects Schedule,"* dated February 19, 2008, were approved by the Department on February 20, 2008. Key milestones approved in the most recent abatement schedule or agreed to by the permittee and Department that the permittee is required to comply with are:

On or before June 30, 2010, *(PCS Code 04599),* the permittee shall complete construction of the CSO abatement project identified as Bath Iron Works Parking Lot Separation.

On or before June 30, 2011, *(PCS Code 04599),* the permittee shall complete construction of the CSO abatement project identified as Separation of Aspen Lane.

On or before June 30, 2012, *(PCS Code 04599),* the permittee shall complete construction of the CSO abatement project identified as Separation of Farrin Place Pump Station Drainage Area.

On or before June 30, 2013, *(PCS Code 04599),* the permittee shall complete construction of the CSO abatement project identified as Separation of Leeman highway.

SPECIAL CONDITIONS

K. CONDITIONS FOR COMBINED SEWER OVERFLOWS (CSOs) (cont'd)

To modify the dates and or projects specified above (but not dates in the Master Plan), the permittee must file an application with the Department to formally modify the permit. The remaining work items identified in the abatement schedule may be amended from time to time based mutual agreements between the permittee and the Department. The permittee must notify the Department in writing prior to any proposed changes to the implementation schedule.

5. Nine Minimum Controls (NMC) (see Section 5 Chapter 570 of Department Rules)
The permittee shall implement and follow the Nine Minimum Controls documentation as approved by the USEPA on May 29, 1997. Work preformed on the Nine Minimum Controls during the year shall be included in the annual *CSO Progress Report* (see below*).*

6. CSO Compliance Monitoring Program (see Section 6 Chapter 570 of Department Rules)

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

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

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

7. Additions of New Wastewater (see Section 8 Chapter 570 of Department Rules)

Chapter 570, Section 8, lists requirements relating to any proposed addition of wastewater to the combined sewer system. Documentation of the new wastewater additions to the system and associated mitigating measures shall be included in the annual *CSO Progress Report* (see below). Reports must contain the volumes and characteristics of the wastewater added or authorized for addition and descriptions of the sewer system improvements and estimated effectiveness. Any sewer extensions upstream of a CSO must be reviewed and approved by the Department prior to their connection to the collection system. A Sewer Extension/Addition Reporting Form shall be completed and submitted to the Department along with plans and specifications of the proposed extension/addition.

SPECIAL CONDITIONS

K. CONDITIONS FOR COMBINED SEWER OVERFLOWS (CSOs) (cont'd)

8. Annual CSO Progress Reports (see Section 7 of Chapter 570 of Department Rules)

By March 1 of each year, ***(PCS Code 11099)****,* the permittee shall submit *CSO Progress Reports* covering the previous calendar year (January 1 to December 31)**.** The CSO Progress Report shall include, but is not necessarily limited to, the following topics as further described in Chapter 570: CSO abatement projects, schedule comparison, progress on inflow sources, costs, flow monitoring results, CSO activity and volumes, nine minimum controls update, sewer extensions, and new commercial or industrial flows.

The CSO Progress Reports shall be completed on a standard form entitled *"Annual CSO Progress Report,"* furnished by the Department, and submitted in electronic form to the following address:

CSO Coordinator
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333-0017
e-mail: CSOCoordinator@maine.gov

9. Signs

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

CITY OF BATH
WET WEATHER
SEWAGE DISCHARGE
CSO # AND NAME

10. Definitions

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

a. Combined Sewer Overflow - a discharge of excess waste water from a municipal or quasi-municipal sewerage system that conveys both sanitary wastes and storm water in a single pipe system and that is in direct response to a storm event or snowmelt.

b. Dry Weather Flows - flow in a sewerage system that occurs as a result of non-storm events or are caused solely by ground water infiltration.

c. Wet Weather Flows - flow in a sewerage system that occurs as a direct result of a storm event, or snowmelt in combination with dry weather flows.

SPECIAL CONDITIONS

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

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

1. Increases in the number, types and flows of industrial, commercial or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic.

2. Changes in the condition or operations of the facility that may increase the toxicity of the discharge.

3. Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge.

4. Increases in the type or volume of hauled wastes accepted by the facility.

5. The Department reserves the right to reinstate annual (surveillance level) testing or other toxicity testing if new information becomes available that indicates the discharge may cause or have a reasonable potential to cause exceedences of ambient water quality criteria/thresholds.

M. MERCURY

All mercury sampling (4/Year) required by this permit or 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 C,** *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

N. 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 shall be postmarked by the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMRs are received by the Department by 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, unless otherwise specified, to the Department's facility inspector at:

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

SPECIAL CONDITIONS

N. MONITORING AND REPORTING (cont'd)

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

Additional monthly reporting requires submitting an electronic version of a *"DEP 49 – CSO Form For Use With Dedicated CSO Primary Clarifiers or DEP 49 – CSO Form For Use With Non-Dedicated CSO Primary Clarifiers,"* included as **Attachment D** of this permit, to:

CSO Coordinator
Department of Environmental Protection
Bureau of Land and Water Quality
17 State House Station
Augusta, Maine 04333-0017
e-mail: CSOCoordinator@maine.gov

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

P. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit 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

Printed 7/14/2009

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

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

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

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

Date Sample Collected _____ Date Sample Analyzed _____

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

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

MARINE AND ESTUARY VERSION

Please see the footnotes on the last page.

			Effluent Limits, %			Receiving Water or Ambient	**Effluent Concentration (ug/L or as noted)** WET Result, % Do not enter % sign	Reporting Limit Check	**Possible Exceedence [7]**		
	WHOLE EFFLUENT TOXICITY		Acute	Chronic					Acute	Chronic	
	Mysid Shrimp										
	Sea Urchin										
	WET CHEMISTRY										
	pH (S.U.) (9)					(8)					
	Total Organic Carbon (mg/L)					NA					
	Total Solids (mg/L)					NA					
	Total Suspended Solids (mg/L)					NA					
	Salinity (ppt.)										
	ANALYTICAL CHEMISTRY [3]										
	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L 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
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	PRIORITY POLLUTANTS [4]										
			Effluent Limits					Reporting Limit Check	**Possible Exceedence** [7]		
		Reporting Limit	Acute[6]	Chronic[6]	Health[6]				Acute	Chronic	Health
M	ANTIMONY	5									
M	BERYLLIUM	2									
M	MERCURY (5)	0.2									
M	SELENIUM	5									
M	THALLIUM	4									
A	2,4,6-TRICHLOROPHENOL	3									
A	2,4-DICHLOROPHENOL	5									
A	2,4-DIMETHYLPHENOL	5									
A	2,4-DINITROPHENOL	45									
A	2-CHLOROPHENOL	5									
A	2-NITROPHENOL	5									
A	4,6 DINITRO-O-CRESOL (2-Methyl-4,6-dinitrophenol)	25									
A	4-NITROPHENOL	20									
A	P-CHLORO-M-CRESOL (3-methyl-4-chlorophenol)+B80	5									
A	PENTACHLOROPHENOL	20									
A	PHENOL	5									
BN	1,2,4-TRICHLOROBENZENE	5									
BN	1,2-(O)DICHLOROBENZENE	5									
BN	1,2-DIPHENYLHYDRAZINE	10									
BN	1,3-(M)DICHLOROBENZENE	5									
BN	1,4-(P)DICHLOROBENZENE	5									
BN	2,4-DINITROTOLUENE	6									
BN	2,6-DINITROTOLUENE	5									
BN	2-CHLORONAPHTHALENE	5									
BN	3,3'-DICHLOROBENZIDINE	16.5									
BN	3,4-BENZO(B)FLUORANTHENE	5									
BN	4-BROMOPHENYLPHENYL ETHER	2									
BN	4-CHLOROPHENYL PHENYL ETHER	5									
BN	ACENAPHTHENE	5									
BN	ACENAPHTHYLENE	5									
BN	ANTHRACENE	5									
BN	BENZIDINE	45									
BN	BENZO(A)ANTHRACENE	8									
BN	BENZO(A)PYRENE	3									
BN	BENZO(G,H,I)PERYLENE	5									
BN	BENZO(K)FLUORANTHENE	3									
BN	BIS(2-CHLOROETHOXY)METHANE	5									
BN	BIS(2-CHLOROETHYL)ETHER	6									
BN	BIS(2-CHLOROISOPROPYL)ETHER	6									
BN	BIS(2-ETHYLHEXYL)PHTHALATE	3									
BN	BUTYLBENZYL PHTHALATE	5									
BN	CHRYSENE	3									
BN	DI-N-BUTYL PHTHALATE	5									
BN	DI-N-OCTYL PHTHALATE	5									
BN	DIBENZO(A,H)ANTHRACENE	5									
BN	DIETHYL PHTHALATE	5									
BN	DIMETHYL PHTHALATE	5									

Maine Department of Environmental Protection
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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 # _____

Pipe # _____

Facility Representative _____ Signature _____

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

Facility Telephone # _____ Date Collected _____ Date Tested _____

mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

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

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

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

ATTACHMENT B

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
CSO ACTIVITY AND VOLUMES

MUNICIPALITY OR DISTRICT	MEPDES / NPDES PERMIT NO.
REPORTING YEAR	SIGNED BY:
YEARLY TOTAL PRECIPITATION INCHES	DATE:

CSO EVENT NO.	START DATE OF STORM	PRECIP. DATA		FLOW DATA (GALLONS PER DAY) OR BLOCK ACTIVITY("1")							
		TOTAL INCHES	MAX. HR. INCHES	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	EVENT OVERFLOW GALLONS	EVENT DURATION HRS
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20											
21											
22											
23											
24											
25											
	TOTALS										

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

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

ATTACHMENT C

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

Pipe # _____

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

SAMPLE COLLECTION INFORMATION

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

Sampling Location:

Weather Conditions: _____

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

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

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

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

Date of analysis: _____ **Result:** _____ **ng/L (PPT)**

Please Enter Effluent Limits for your facility

Effluent Limits: **Average =** _____ ng/L **Maximum =** _____ ng/L

Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.

CERTIFICATION

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

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT D

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DEP-49-CSO FORM FOR USE WITH DEDICATED CSO PRIMARY CLARIFIERS

Doc Num: DEPLW0463

WET WEATHER BYPASS OPERATIONS REPORT FOR _____ State License No. _____ MEPDES/NPDES Permit No. _____ SIGNED BY:_____ DATE:_____

DEP-49-CSO-Dedicated.xls (rev. 12/12/01)

DATE	SECONDARY BYPASS FLOW DATA						Cl RESIDUALS				BACTERIA								BOD5					TSS					WEATHER				COMMENTS
MONTH_____ YEAR_____	TREATED PRIMARY FLOW BYPASSING SECONDARY	SECONDARY BYPASS CLARIFIER SURFACE AREA	BYPASS DURATION	BYPASS CLARIFIER SURFACE LOADING RATE	SECONDARY FLOW TREATED	TRUE CSO BYPASS AROUND PRIMARY	MAX CHLORINE DOSE	CHLORINE RESIDUAL IN PRIMARY EFFLUENT	CHLORINE RESIDUAL IN SECONDARY EFFLUENT	CALCULATED BLENDED EFFLUENT	E.COLI / FECAL IN PRIMARY EFFLUENT	E.COLI / FECAL IN PRIMARY EFFLUENT	E.COLI / FECAL IN PRIMARY EFFLUENT	E.COLI / FECAL IN PRIMARY EFFLUENT	E.COLI / FECAL IN SECONDARY EFFLUENT	CALCULATED BLENDED EFFLUENT	pH	SETTLEABLE SOLIDS IN PRIMARY EFFLUENT	PRIMARY INFLUENT	PRIMARY EFFLUENT	PERCENT REMOVAL	SECONDARY EFFLUENT	CALCULATED BLENDED EFFLUENT	PRIMARY INFLUENT	PRIMARY EFFLUENT	PERCENT REMOVAL	SECONDARY EFFLUENT	CALCULATED BLENDED EFFLUENT	CONDITIONS	TEMPERATURE	PRECIPITATION	STORM DURATION	
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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
WASTE DISCHARGE LICENSE

FACT SHEET

Date: **September 11, 2009**

MEPDES PERMIT: **ME0100021**
WASTE DISCHARGE LICENSE: **W002678-6D-G-R**

NAME AND ADDRESS OF APPLICANT:

CITY OF BATH (City)
55 Front Street
Bath, ME. 04530

COUNTY: **Sagadahoc**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Bath Water Pollution Control Facility (BWPCF)
Town Landing Road
Bath, ME 04530

and

Four (4) Combined Sewer Overflow (CSO) Outfalls:

Outfall #	Location	Receiving Water & Class
003	Rose Street Pump Station	Kennebec River, SB
004	Pleasant Avenue Pump Station	Kennebec River, SB
005	Commercial Street Pump Station	Kennebec River, SB
008	Harward Street Pump Station	Kennebec River, SB

RECEIVING WATER / CLASSIFICATION: **Kennebec River / Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

Peter Owen, Public Works Director
(207) 443-8330
powens@cityofbath.com

Chris Wallace, Superintendent
(207) 443-8357
cwallace@cityofbath.com

1. APPLICATION SUMMARY

a. Application: The City of Bath (City) has filed a timely and complete application with the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100021/Maine Waste Discharge License (WDL)#W002678-5L-F-R, which was issued by the Department on October 26, 2004 and is scheduled to expire on October 26, 2009. It is noted the 10/26/04 was subsequently modified on April 26, 2006 to incorporate the monitoring requirements established in Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, promulgated on October 12, 2005. The 10/26/04 permitting action authorized the monthly average discharge of up to 3.5 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW), as well as the discharge of an unspecified quantity of primary treated waste water from a secondary treatment bypass structure at the treatment facility, and an unspecified quantity of excess combined sanitary and storm water during wet weather events from four (4) combined sewer overflow (CSO) outfalls to the Kennebec River, Class SB, in Bath, Maine.

b. Source Description: The City of Bath operates a municipal wastewater treatment facility (Bath Water Pollution Control Facility, BWPCF) located on Town Landing Road in Bath for the treatment of domestic, industrial and commercial waste waters generated by users within the City of Bath. There are no significant industrial users contributing flows greater than 10% of the volume of wastewater received by the treatment facility. The BWPCF receives industrial wastes from Bath Iron Works (BIW), which is monitored by BIW and the BWPCF.

The BWPCF sewer collection system is approximately 11.5 miles in length and is a combined (sanitary and storm water) system. The BWPCF currently maintains thirteen (13) pump stations, of which seven (7) are currently equipped with a back-up power supply. There are currently four (4) remaining combined sewer overflow (CSO) points associated with the collection system, which are identified in Special Condition K, *Conditions For Combined Sewer Overflows (CSOs)*, of this permit.

Maps showing the location of the BWPCF, the plant outfall and the CSO outfalls are included as **Attachment A** of this Fact Sheet.

c. Waste Water Treatment: The BWPCF provides a secondary level of treatment via an activated sludge treatment process. Screenings and grit are removed at the headworks by means of an automatic climbing rake and swirl grit chamber with grit screw apparatus. Two secondary clarifiers were retrofitted in 1999 and now serve as primary treatment clarifiers. Each clarifier measures 50 feet in diameter and has a capacity of 157,000 gallons. Reaction is accomplished by two separate aeration trains (2 basins each) and secondary clarification of wastewater is accomplished using three 180-foot by 12-foot rectangular clarifiers that each has a capacity of 137,000 gallons. Sludge dewatering is accomplished by means of two (2) two-meter belt filter presses. Dewatered sludge is transported offsite for disposal in the City's landfill. Secondary treated waste water is disinfected using sodium hypochlorite and dechlorinated using sodium bisulfite in detention tanks prior to being discharged to the Kennebec River via a 36-inch diameter outfall pipe that is fitted with a diffuser to enhance mixing with the receiving waters. The end of the outfall pipe is submerged to a depth of approximately 24 feet below the surface of the river at mean low water.

1. APPLICATION SUMMARY (cont'd)

The previous permitting action authorized the City to accept and introduce into the waste water treatment facility up to 10,000 gallons per day of septage from local septage haulers. The permittee has requested to carry forward authorization for said quantity and has submitted an up-to-date transported waste management plan to the Department.

A schematic of the wastewater treatment process is included as **Attachment B** of this Fact Sheet.

2. PERMIT SUMMARY

a. Terms and conditions - This permitting action is carrying forward all the terms and conditions of the 10/26/04 MEPDES permit except that it is reducing the monitoring frequency for whole effluent toxicity (WET) and chemical specific testing and changing the numeric monthly average flow limitation to a "report" only requirement.

b. Regulatory History: This section provides a summary of significant licensing/permitting actions that have been completed for the BWPCF.

January 9, 1992 – The State of Maine entered into a Consent Agreement and Enforcement Order with the City, which established a compliance schedule to evaluate and eliminate combined sewer overflows (CSO's) through the development of a CSO abatement Master Plan and associated programs.

September 1995 – A Master Plan document prepared by EER, Inc. and entitled, "*Supplemental Combined Sewer Overflow Facilities Plan Study*" was submitted to the Department and the USEPA for review and approval.

October 27, 1999 – The Department issued WDL #W002678-5L-D-R for a five-year term.

October 1, 1999 – The CSO Master Plan was approved by the Department and the EPA.

July 12, 2000 – The Department issued a modification of the 10/27/99 WDL by establishing interim mean and maximum concentration limits for mercury.

January 18, 2001 – The Department unilaterally modified the 10/27/09 WDL by establishing interim average and maximum concentration limits for mercury.

December 27, 2001 – The Department administratively modified WDL #W002678-5L-D-R through the issuance of combination MEPDES permit #ME0100021/WDL modification #W002678-5L-E-M to the City. This modification incorporated the terms and conditions of the MEPDES permit program, established a requirement for a minimum of 85% removal of BOD_5 and TSS, and revised the pH range limitation from 6.0 – 8.5 SU to 6.0 – 9.0 SU.

February 19, 2003 – The Department issued a Notice of Violation (NOV) to the City for chronic violations of numeric limitations established in the 12/27/01 permitting action.

2. PERMIT SUMMARY (cont'd)

September 22, 2004 – The USEPA issued an Administrative Order ("AO") (AO Docket No. 04-56) to the City for violations permit conditions established in the 12/27/01 MEPDES permit #ME0100021.

October 26, 2004 – The Department issued combination MEPDES permit #ME0100021/ WDL#W002678-5L-F-R for a five-year term.

April 10, 2006 – The Department issued a modification of the 10/26/04 permit that established monitoring requirements in accordance with Department rule 06-096 CMR, Chapter 530, *Surface Water Toxics Control Program*, promulgated on October 12, 2005.

February 20, 2008 – The Department approved an updated CSO Master Plan for the City.

August 13, 2009 – The City submitted a timely and complete application to the Department to renew the 10/26/04 MEPDES permit.

3. CONDITIONS OF PERMIT

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

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A. §469 classifies the Kennebec River at the point of discharge as Class SB waters. Maine law, 38 M.R.S.A. §465-B(2) describes the standards for Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS

The 2008 Integrated Water Quality Monitoring and Assessment Report, prepared by the department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the Kennebec River estuary at Bath (Waterbody # 710-3) as, *"Category 5-B-2: Estuarine and Marine Waters Impaired by Bacteria From Combined Sewer Overflows (TMDL Required Only if Control Plans are Insufficient)."* The City has developed and implemented a CSO master plan for the elimination of all CSO points associated with the BWPCF collection system. As the BWPCF and the sewer collection system are upgraded and maintained in according to the CSO Master Plan and Nine Minimum Controls, there should be reductions in the frequency and volume of CSO activities and in the wastewater receiving primary treatment only at the treatment plant, and over time, improvement in the quality of the wastewater discharged to the receiving waters.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

Currently, the Maine Department of Marine Resources shellfish harvesting Area #20 is closed to the harvesting of shellfish due to insufficient (limited) ambient water quality data to meet the standards in the National Shellfish Sanitation Program. Compliance with the year-round fecal coliform bacteria limits in this permitting action ensures that the discharge from the BWPCF will not cause or contribute to the shellfish harvesting closure. The shellfish closure area is identified on the map included as Fact Sheet **Attachment C.**

Secondary Treated Wastewater

a. Flow: The previous permitting action established a monthly average discharge flow limitation of 3.5 MGD based on the dry weather design capacity of the treatment works. During extended wet weather events (weeks or months), the permittee has violated the monthly average flow limitation. Therefore, the Department is changing the monthly average limit to a reporting requirement. Regulating the discharge in this manner in no way shall be construed to represent any change to design loading criteria of the waste water treatment facility.

A review of the monthly DMR data for the period January 2006 - April 2009 indicates the following:

Flow (n=40)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	3.5	0.38 – 3.97	1.93

b. Dilution Factors: Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, Section (4)(a)(2), states that, *"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 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 or CORMIX."* Based on plan and profile information submitted by the permittee, and calculations based on interpretation of the CORMIX model, the Department has determined that the dilution factors associated with the discharge from the BWPCF are as follows:

Acute = 34:1 Chronic = 284:1 Harmonic Mean[(1)] = 852:1

Footnote:

1. The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication, "*Technical Support Document for Water Quality-Based Toxics Control"* (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

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

c. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS): The previous permitting action established monthly average and weekly average BOD_5 & TSS concentration limits of 30 mg/L and 45 mg/L, respectively, that were based on secondary treatment requirements of Department rule 06-096 CMR Chapter 525(3)(III). The previous permitting action also established a daily maximum BOD_5 & TSS concentration limit of 50 mg/L based on a Department best professional judgement of best practicable treatment (BPT). All three concentration limits are being carried forward in this permitting action. The previous permitting action established monthly average and weekly average mass limits of 876 lbs./day and 1,314 lbs./day, respectively, and a daily maximum mass reporting requirement, which are being carried forward in this permitting action and were derived as follows:

Monthly average Mass Limit: (30 mg/L)(8.34 lbs./gallon)(3.5 MGD) = 876 lbs./day
Weekly Average Mass Limit: (45 mg/L)(8.34 lbs./day)(3.5 MGD) = 1,314 lbs./day

This permitting action is carrying forward the daily maximum mass reporting requirements for BOD_5 and TSS rather than establishing numeric limitations based on a Department BPJ determination in order to encourage the BWPCF to maximum use of secondary treatment processes during wet weather events. This permitting action is also carrying forward the requirement for a minimum of 85% removal of BOD_5 & TSS pursuant to Chapter 525(3)(III)(a)(3) and (b)(3) of the Department's rules.

This permitting action is carrying forward the minimum monitoring frequency requirement of three times per week (3/Week) for BOD_5 & TSS based on Department guidance for POTWs permitted to discharge between 1.5 and 5.0 MGD.

A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2006 – April 2009 indicates the following:

BOD Mass (n=40)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	876	58 - 276	135
Weekly Average	1,314	69 – 1,161	390
Daily Maximum	Report	84 – 2,225	695

BOD Concentration (n=40)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	7 - 18	12
Weekly Average	45	8.5 - 35	16
Daily Maximum	50	10 - 50	26

BOD %Removal (n=40)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	$\geq$85	86 - 97	93

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

TSS mass (n=40)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	876	14 - 252	95
Weekly Average	1,314	26 - 650	188
Daily Maximum	Report	57 – 2,084	829

TSS concentration (n=40)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	2 - 15	8
Weekly Average	45	4 – 32	14
Daily Maximum	50	5 - 70	27

TSS %Removal (n=40)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	≥85	91 - 99	97

d. Settleable Solids: The previous permitting action established a daily maximum technology-based concentration limit of 0.3 ml/L for settleable solids, which is being carried forward in this permitting action as it is considered by the Department as BPT for secondary treated wastewater, and is carrying forward the minimum monitoring frequency requirement of once per day (1/Day) based on Department guidance for POTWs permitted to discharge between 1.5 and 5.0 MGD.

A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2006 – April 2009 indicates the following:

Settleable solids

Value	Limit (ml/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	0.3	0.1 – 0.3	0.1

e. Fecal Coliform Bacteria: The previous permitting action established year-round monthly average and daily maximum water quality-based concentration limits of 15 colonies/100 ml (geometric mean) and 50 colonies/100 ml (instantaneous level), respectively, for fecal coliform bacteria based on the National Shellfish Sanitation Program and a minimum monitoring frequency requirement of three times per week. This permitting action is carrying forward both water quality-based concentration limits and the minimum monitoring frequency requirement of three times per week (3/Week) based on Department guidance for POTWs permitted to discharge between 1.5 and 5.0 MGD. Pursuant to a written request from the Maine Department of Marine Resources, disinfection is required year-round in order to ensure compliance with fecal coliform bacteria limits and thereby providing for the protection of local shellfish resources.

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

A review of the monthly DMR data for the period January 2006 - April 2009 indicates the following:

Fecal coliform bacteria

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	15	1 - 2	1
Daily Maximum	50	1 - 45	6

f. Total Residual Chlorine (TRC): The previous permitting action established monthly average and daily maximum technology-based concentration limitations of 0.1 mg/L and 0.3 mg/L, respectively, for TRC and a minimum monitoring frequency requirement of once per day. Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department licensing/permitting actions impose the more stringent of either a water quality-based or BPT-based limit. End-of-pipe (EOP) water quality-based concentration thresholds may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated Acute Threshold	Calculated Chronic Threshold
0.013 mg/L	0.0075 mg/L	34:1 (A) 284:1 (C)	0.44 mg/L	2.13 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. For facilities that need to dechlorinate the discharge in order to meet water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. The BWPCF must dechlorinate the effluent prior to discharge in order to consistently achieve compliance with the calculated daily maximum water quality-based threshold. Therefore, this permitting action is carrying forward the monthly average and daily maximum technology-based concentration limitations of 0.1 mg/L and 0.3 mg/L, respectively, for TRC and the minimum monitoring frequency of twice per day (2/Day) based on Department guidance for POTWs permitted to discharge between 1.5 and 5.0 MGD.

A review of the DMR data for the period January 2006 – April 2009 indicates concentration values being reported as follows:

Total residual chlorine

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	0.1	0.01 – 0.03	0.02
Daily Maximum	0.3	0.03– 0.18	0.06

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

g. pH: The previous permitting action established a pH range limitation of 6.0 – 9.0 standard units (SU) based on Department rule 06-096 CMR Chapter 525(3)(III)(c), and a minimum monitoring frequency requirement of once per day (1/Day) based on Department guidance for POTWs permitted to discharge between 1.5 and 5.0 MGD, which are being carried forward in this permitting action. The DMR data for the period January 2006 – April 2009 indicates the permittee has been in compliance with the pH range limitation 100% of the time.

h. Whole Effluent Toxicity (WET) and 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:

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

Department rule Chapter 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee's facility falls into the Level III frequency category as the facility has a chronic dilution factor of ≥100:1 but <500:1 or >500:1 and Q ≥1.0 MGD. Chapter 530(1)(D)(1) specifies that default screening and surveillance level testing requirements are as follows:

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

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

A review of the data on file with the Department indicates that to date, the permittee has fulfilled the WET and chemical-specific testing requirements of the former Chapter 530.5. See **Attachment D** of this Fact Sheet for a summary of the WET test results and **Attachment E** of this Fact Sheet for a summary of the chemical-specific test dates.

Department rule Chapter 530(D)(3)(c) states in part *"Dischargers in Level I may reduce surveillance testing to one WET or specific chemical series per year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*"

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."*

On 6/17/09, the Department conducted a statistical evaluation on the most recent 60 months of WET data that indicates that the discharge does not exceed or have a reasonable potential (RP) to exceed either the acute or chronic critical ambient water quality criteria (AWQC) thresholds (2.9% and 0.35%, respectively – mathematical inverse of the applicable dilution factors) for any of the WET species tested to date. It is noted the inland silverside is no longer listed as a test species in Chapter 530 and any test results within the 60-month evaluation period for said species are not considered in statistical evaluations in this permitting action.

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

The 6/17/09 statistical evaluation indicates that the discharge does not exceed or have a reasonable potential (RP) to exceed the critical ambient water quality criteria (AWQC) thresholds for any chemicals or compounds tested to date.

Given the absence of exceedences or reasonable potential to exceed critical WET thresholds or chemical-specific AWQC, the permittee meets the surveillance level monitoring frequency waiver criteria found at Department rule Chapter 530(D)(3)(b). Therefore, the only WET and chemical specific testing requirements are established as screening level testing of once per year (1/Year) for WET testing, once per year for priority pollutant testing and once per calendar quarter (1/Quarter) in four consecutive calendar quarters for chemical-specific testing. Screening level testing shall be completed in the 12-month period prior to the expiration date of this permit.

In accordance with Department rule Chapter 530(2)(D)(4) and Special Condition L of this permit, *Chapter 530(2)(D)(4) Certification*, the permittee must annually submit to the Department a written statement evaluating its current status for each of the four conditions listed.

i. Mercury: Pursuant to *Certain deposits and discharges prohibited*, Maine law, 38 M.R.S.A. § 420 and Waste discharge licenses, 38 M.R.S.A. § 413 and Interim Effluent Limitations and Controls for the Discharge of Mercury, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a Notice of Interim Limits for the Discharge of Mercury to the permittee on January 18, 2001, thereby administratively modifying MEPDES #ME0100021/WDL # W002628-5L-D-R by establishing interim monthly average and daily maximum effluent concentration limits of 30.9 parts per trillion (ppt) and 46.3 ppt, respectively, and a minimum monitoring frequency requirement of four (4) tests per year for mercury. It is noted the limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as limitations and monitoring frequencies are regulated separately through 38 M.R.S.A.§ 413 and 06-096 CMR 519 and Special Condition M of this permit. The interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of the Department's database for the previous 60-month period indicates mercury test results reported have ranged from 1.8 ppt to 17 ppt with an arithmetic mean (n=22) of 4.5 ppt.

j. Septage/Transported Wastes – The previous permitting action authorized the District to receive up to 10,000 gpd of septage. Department rule Chapter 555, *Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities*, limits the quantity of transported received at a facility to 1% of the design capacity of treatment facility if the facility utilizes a side stream or storage method of introduction into the influent flow, or 0.5% of the design capacity of the facility if the facility does not utilize the side stream or storage method of introduction into the influent flow. A facility may receive more than 1% of the design capacity

k.

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

on a case-by-case basis. In their application for permit renewal, the City has requested the Department carry forward the daily quantity of septage it is authorized to receive and treat (up to 10,000 gpd) as it does not utilize the side stream/storage method of metering septage into the facility's influent flow. With a design capacity of 3.5 MGD, 10,000 gpd only represents 0.29% of said capacity. The permittee has submitted an up-to-date Septage Management Plan as an exhibit to their 8/13/09 application for permit renewal.

The Department has reviewed and approved said plan and determined that under normal operating conditions, the receipt and treatment of 10,000 gpd of septage to the facility will not cause or contribute to upset conditions of the treatment process.

Primary Treated Wastewater

The permittee maintains a combined sewer system from which wet weather overflows have been documented. To address and control these events, the permittee must prepare a Master Plan (Long Term Control Plan) and implement the USEPA's Nine Minimum Controls for its sewer systems, and consider various control options. See Special Condition K, *Combined Sewer Overflows (CSO's)* of this permit. The plan must addresses all of the relevant considerations contained in the USEPA's CSO Policy, section II.C. (See Federal Register, April 19, 1994.) One element of the permittee's Master Plan is to maximize existing infrastructure to convey as much excess wet weather flow to the treatment facility as practicable. However, due to the nature and volume of wet weather flows, it is not possible to provide secondary treatment for all flows than can be conveyed to the treatment plant site. Attempting to do so would cause upsets and damage to the secondary treatment process. Expansion of the secondary system would not be practicable since the facilities would be too large to effectively treat normal dry weather flows. As the BWPCF and the sewer collection system are upgraded and maintained in according to the CSO Master Plan and Nine Minimum Controls, there should be reductions in the frequency and volume of CSO activities and in the wastewater receiving primary treatment only at the treatment plant, and, over time, improvement in the quality of the wastewater discharged to the receiving waters.

Given these circumstances, and consistent with the USEPA's 4/19/94, CSO Policy, Section II.C.7, the Department has determined that primary treatment, disinfection and dechlorination is an appropriate means of best practicable treatment (BPT) for some excess CSO flows, and this treatment be accomplished at the existing treatment facility site. A review of the design of the existing secondary system and past operational records indicates that the secondary treatment can be provided for flows up to a peak hourly flow of 7.0 MGD. However, to assure that the secondary treatment capacity is fully utilized, this permit contains a requirement for a Wet Weather Flow Management Plan that will be updated periodically. Flows delivered to the treatment facility site in excess of that which can be given secondary treatment will receive primary treatment using the existing primary clarifiers and disinfection using chlorine or chlorine-based compounds.

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

This permitting action is carrying forward the monthly average and daily maximum discharge flow reporting requirements, the daily maximum surface loading rate (in gallons per day per square foot), the monthly average overflow use and occurrences reporting requirement (in number of days), the daily maximum concentration reporting requirement for BOD_5 and TSS, the percent removal reporting requirement for BOD_5 and TSS, and the daily maximum settleable solids concentration reporting requirement in addition to the numeric limitations for fecal coliform bacteria, TRC and pH as described in the following paragraphs.

k. Flow- The previous permitting action established a requirement to report the total flow receiving primary treatment on a monthly basis along with a requirement to report the highest daily flow receiving primary treatment during each month. A review of the DMR data for the period January 2006 – April 2009 indicates flows have been reported as follows:

Flow (n=37)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Total	Report	0.01 – 15.81	4.8
Daily Maximum	Report	0.01 – 5.59	2.3

l. Surface Loading Rate – The previous permitting action established a daily maximum reporting requirement for the surface loading rate of the primary clarifier expressed in gpd/sf. The surface loading rate is important in developing a relationship between the effectiveness of the primary clarifier to remove pollutants under varying flow conditions. A review of the DMR data for the period January 2006 – April 2009 indicates surface loading rates have been reported as follows:

Surface Loading Rate (n=37)

Value	Limit (gpd/sf)	Range (gpd/sf)	Mean (gpd/sf)
Daily Maximum	Report	61 – 25,599	2,434

m. Overflow Occurrences – The previous permitting action established a requirement to report the total number of overflow occurrences during each calendar month. A review of the DMR data for the period January 2006 – April 2009 indicates overflow occurrences have been reported as follows:

Overflow occurrences (n=37)

Value	Limit (#)	Range (#)	Mean (#)
Monthly Total	Report	0 - 7	4

n. BOD and TSS - This permitting action is carrying forward a daily maximum concentration reporting requirement for BOD_5 and TSS. Since the flow receiving primary treatment will likely be dilute under wet weather conditions, traditional removal rates for primary treatment are not likely to be consistently achieved. Accordingly, this permitting action is carrying forward a reporting requirement for BOD_5 and TSS percent removal, rather than a requirement

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

for a minimum of 85% removal as is established for secondary treated wastewater discharges. A review of the DMR data for the period January 2006 – April 2009 indicates BOD and TSS concentrations have been reported as follows:

BOD Concentration (n=37)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily maximum	Report	52 - 200	93

TSS Concentration (n=37)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily maximum	Report	97 - 393	185

o. Settleable solids – The previous permitting action established a daily maximum reporting requirement for setteable solids concentrations. A review of the DMR data for the period January 2006 – April 2009 indicates the settleable solids concentrations have been reported as follows:

SS Concentration (n=37)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily maximum	Report	0.6 - 17	3.5

The Department has reconsidered its position on establishing a monitoring requirement for settleable solids on primary treated effluent from a clarifier under stressed conditions during wet weather events. As a result, settleable solids is not being carried forward as a parameter to be monitored for on primary treated waste waters.

p. Fecal coliform bacteria - Bacterial contamination is the most direct water quality risk from wet weather discharge events and this permit contains year-round limits for fecal coliform bacteria and total residual chlorine. Primary effluent is somewhat more difficult to disinfect due to a higher organic content and flow variations, therefore the use of a daily maximum of 50 colonies/100 mL for fecal coliform bacteria, as is established for secondary treated effluent discharges, is inappropriate. Based on a Department BPJ determination, this permitting action is carrying forward the daily maximum concentration limitation of 200 colonies/100 mL for fecal coliform bacteria. Given the available dilution provided by the receiving waters, this value is protective of receiving water quality. A review of the DMR data for the period January 2006 – April 2009 indicates the fecal coliform bacteria counts have been reported as follows:

Fecal coliform bacteria (n=29)

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Daily Maximum	200	1 - >3000	17

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

q. Total residual chlorine - The BWPCF has the ability to dechlorinate the primary bypass flows and reduce the residual chlorine concentration to 1.0 mg/L or lower. The BWPCF is not required to achieve compliance with the BPT-based standard of 0.3 mg/L, which is typically established for facilities that dechlorinate the effluent prior to discharge, based on a Department best professional judgment determination considering that the receiving waters are classified as impaired by bacteria from CSOs and to encourage maximum bacteria kill prior to discharge. Therefore, this permitting action is carrying forward the daily maximum concentration limitation of 1.0 mg/L for TRC. A review of the DMR data for the period January 2006 – April 2009 indicates the fecal coliform bacteria counts have been reported as follows:

Total residual chlorine (n=

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.0 – 0.5	0.15

r. pH Range Limitation: This permitting action is carrying forward a pH range limitation of 6.0 – 9.0 SU for primary treated wastewater based on a Department BPJ determination and Department rule Chapter 525(3)(III)(c). A review of the DMR data for the period January 2006 – April 2009 indicates the permittee has been in compliance with the pH range limitation 100% of the time.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

The Department acknowledges that the elimination of the four (4) remaining CSOs in the collection system and the secondary bypass (primary treated only) of sanitary waste water is a costly long term project. As the BWPCF and the sewer collection system is upgraded and maintained in according to the CSO Master Plan and Nine Minimum Controls, there should be reductions in the frequency and volume of CSO activities and in the wastewater receiving primary treatment only at the treatment plant, and, over time, improvement in the quality of the wastewater discharged to the receiving waters.

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

8. PUBLIC COMMENTS

Public notice of this application was made in the *Times Record* newspaper on or about August 20, 2009. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

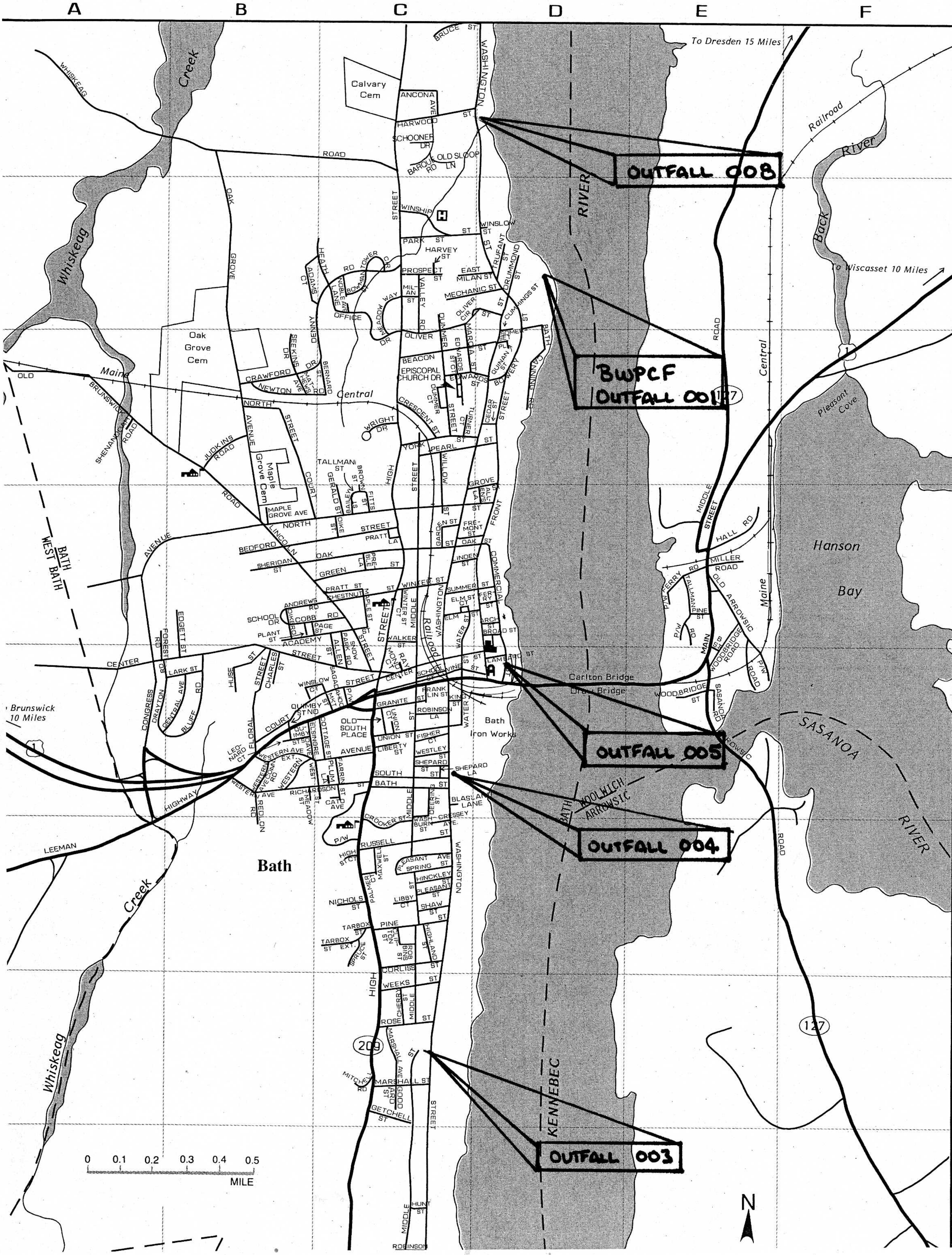
Additional information concerning this permitting action may be obtained from, and written comments sent to:

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

10. RESPONSE TO COMMENTS

During the period of September 11, 2009, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

ATTACHMENT A



A
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OUTFALL 008
BWPCF
OUTFALL 001
OUTFALL 005
OUTFALL 004
OUTFALL 003
To Dresden 15 Miles
To Wiscasset 10 Miles
Brunswick 10 Miles
Calvary Cem
Oak Grove Cem
Maple Grove Cem
Bath
Bath Iron Works
Carlton Bridge
Drew Bridge
Hanson Bay
Pleasant Cove
KENNEBEC
RIVER
SASANOA RIVER
Back River
Whiskeag Creek
Railroad
BATH WEST BATH
BATH WOOLWICH ARROWSIC
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MILE
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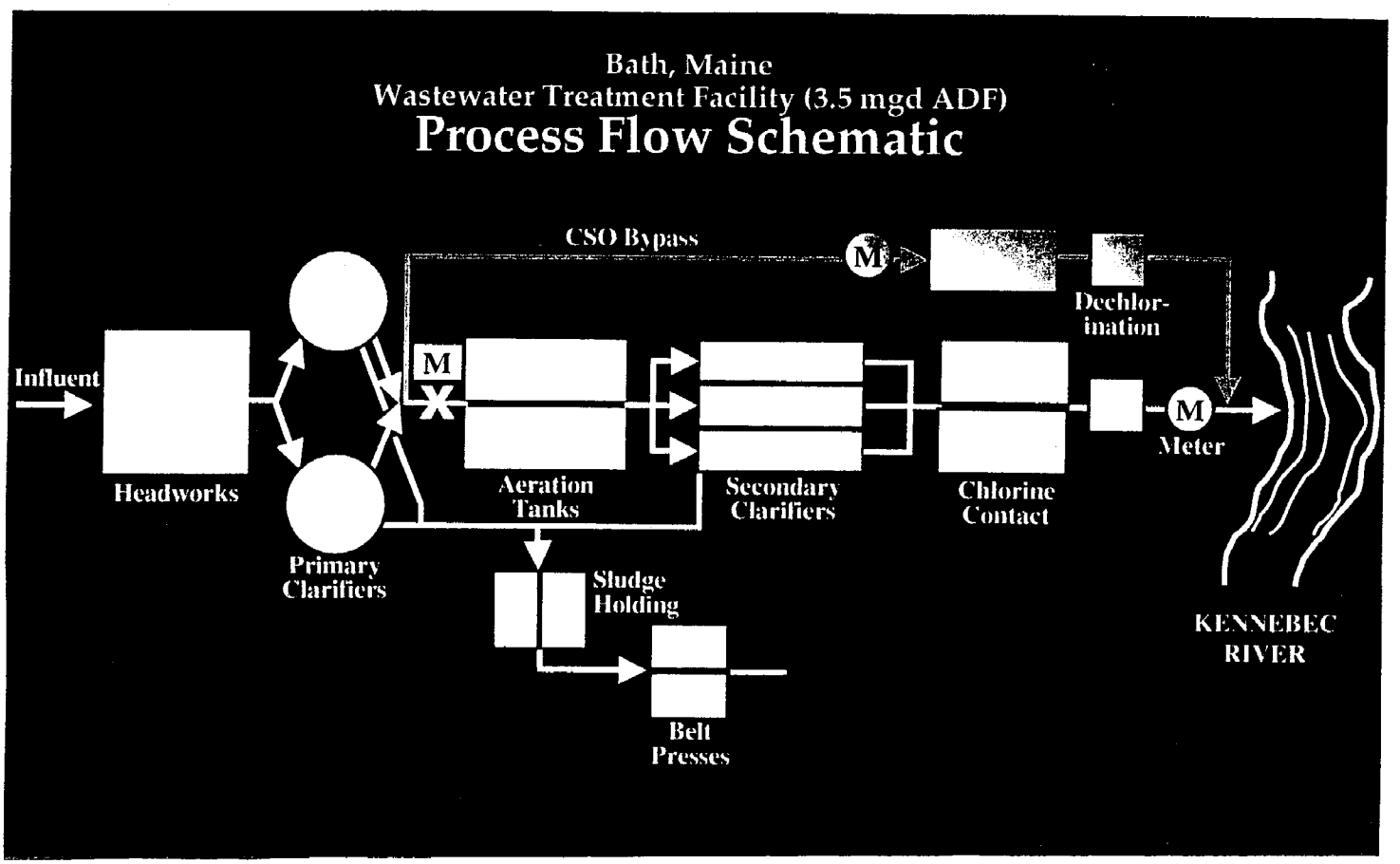
ATTACHMENT B


Bath, Maine
Wastewater Treatment Facility (3.5 mgd ADF)
Process Flow Schematic
CSO Bypass
M
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Headworks
Aeration
Tanks
Secondary
Clarifiers
Chlorine
Contact
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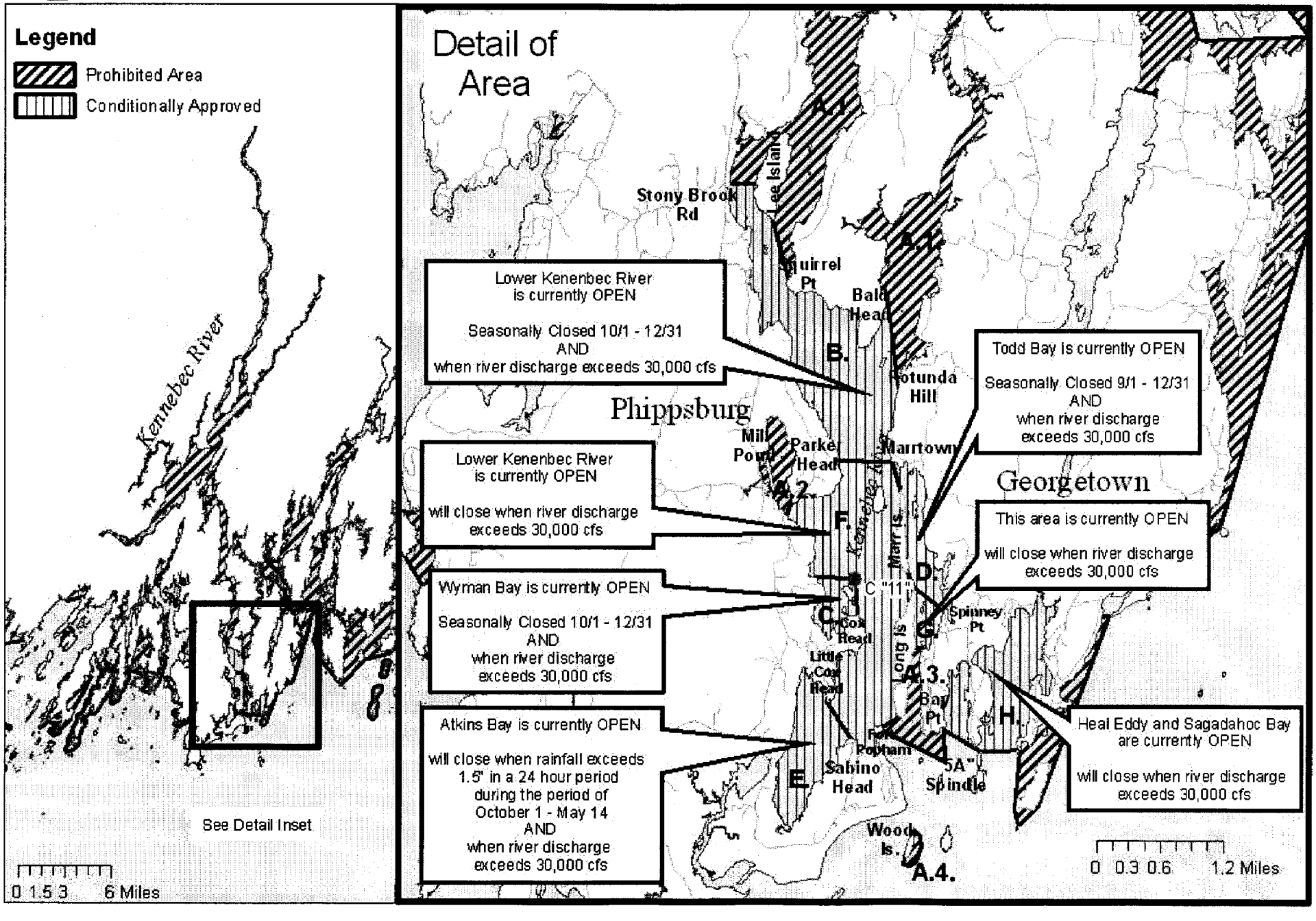
Meter
Primary
Clarifiers
Sludge
Holding
KENNEBEC
RIVER
Belt
Presses

ATTACHMENT C

Maine Department of Marine Resources

Pollution Area No. 20 Kennebec River and Tributaries

8-19-09



ATTACHMENT D

Species	Test	Test Result %	Sample Date
MYSID SHRIMP	LC50	>100	01/16/2001
SEA URCHIN	C_NOEL	5.0	01/16/2001
SILVER SIDE	A_NOEL	100	01/16/2001
SILVER SIDE	C_NOEL	100	01/16/2001
SILVER SIDE	LC50	>100	01/16/2001
MYSID SHRIMP	A_NOEL	100	01/21/2001
MYSID SHRIMP	LC50	>100	01/21/2001
SEA URCHIN	C_NOEL	10	01/21/2001
SILVER SIDE	A_NOEL	100	01/21/2001
SILVER SIDE	C_NOEL	100	01/21/2001
SILVER SIDE	LC50	>100	01/21/2001
MYSID SHRIMP	A_NOEL	100	07/08/2001
MYSID SHRIMP	LC50	>100	07/08/2001
SEA URCHIN	C_NOEL	100	07/08/2001
SILVER SIDE	A_NOEL	100	07/08/2001
SILVER SIDE	C_NOEL	100	07/08/2001
SILVER SIDE	LC50	>100	07/08/2001
MYSID SHRIMP	A_NOEL	83.3	02/24/2002
MYSID SHRIMP	LC50	>100	02/24/2002
SEA URCHIN	C_NOEL	100	02/24/2002
SILVER SIDE	A_NOEL	100	02/24/2002
SILVER SIDE	C_NOEL	100	02/24/2002
SILVER SIDE	LC50	>100	02/24/2002
SEA URCHIN	C_NOEL	10	08/26/2002
MYSID SHRIMP	A_NOEL	50	02/23/2003
MYSID SHRIMP	LC50	67.7	02/23/2003
SEA URCHIN	C_NOEL	1	02/23/2003
SILVER SIDE	A_NOEL	100	02/23/2003
SILVER SIDE	C_NOEL	100	02/23/2003
SILVER SIDE	LC50	>100	02/23/2003
SEA URCHIN	C_NOEL	100	09/29/2003
MYSID SHRIMP	A_NOEL	59.1	01/04/2004
MYSID SHRIMP	LC50	95.5	01/04/2004
SEA URCHIN	C_NOEL	100	01/04/2004
SILVER SIDE	A_NOEL	100	01/04/2004
SILVER SIDE	C_NOEL	100	01/04/2004
SILVER SIDE	LC50	>100	01/04/2004
SEA URCHIN	C_NOEL	100	07/18/2004
MYSID SHRIMP	A_NOEL	>100	07/07/2008
SEA URCHIN	C_NOEL	10	07/07/2008

ATTACHMENT E

Sample Date: 01/04/2004
Plant flows provided

Total Tests:	131	mon.(MGD)=	1.990
Missing Compounds:	2	day(MGD)=	3.500
Tests With High DL:	0		

M = 0 V = 0 A = 0

BN = 0 P = 0 other = 0

Sample Date: 04/26/2004
Plant flows provided

Total Tests:	123	mon.(MGD)=	2.830
Missing Compounds:	1	day(MGD)=	2.750
Tests With High DL:	0		

M = 0 V = 0 A = 0

BN = 0 P = 0 other = 0

Sample Date: 07/18/2004
Plant flows provided

Total Tests:	136	mon.(MGD)=	1.320
Missing Compounds:	0	day(MGD)=	0.760
Tests With High DL:	0		

M = 0 V = 0 A = 0

BN = 0 P = 0 other = 0

Sample Date: 10/11/2004
Plant flows provided

Total Tests:	123	mon.(MGD)=	1.130
Missing Compounds:	1	day(MGD)=	0.810
Tests With High DL:	0		

M = 0 V = 0 A = 0

BN = 0 P = 0 other = 0

Sample Date: 07/07/2008
Plant flows provided

Total Tests:	129	mon.(MGD)=	0.387
Missing Compounds:	1	day(MGD)=	0.321
Tests With High DL:	0		

M = 0 V = 0 A = 0

BN = 0 P = 0 other = 0

CONTENTS

A. GENERAL PROVISIONS

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

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

(a) They are not

(i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
(ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

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

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

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

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

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

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

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

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

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

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

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

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

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

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

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

(b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.

(c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.

(d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.

(e) The permittee shall install flow measuring facilities of a design approved by the Department.

(f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

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

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

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

5. Bypasses.

(a) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

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

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

(c) Notice.

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

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(C) The permittee submitted notices as required under paragraph (c) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;
(ii) The permitted facility was at the time being properly operated; and
(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(c) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;
(ii) The individual(s) who performed the sampling or measurements;
(iii) The date(s) analyses were performed;
(iv) The individual(s) who performed the analyses;
(v) The analytical techniques or methods used; and
(vi) The results of such analyses.

(d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.

(e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

D. REPORTING REQUIREMENTS

1. Reporting requirements.

(a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(f) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
(B) Any upset which exceeds any effluent limitation in the permit.
(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);
(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

(b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following ``notification levels'':

(i) Five hundred micrograms per liter (500 ug/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

(a) All POTWs must provide adequate notice to the Department of the following:

(i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
(ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
(iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

(a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.

(b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminates and shall specify means of disposal and or treatment to be used.

3. **Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. **Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

Continuous discharge means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004 **Contact: (207) 287-2811**

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status*. Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.