STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

September 25, 2009

Mr. Terry Savage, Chief Operator
Town of Mount Desert-Seal Harbor
P.O. Box 248
Northeast Harbor, ME 04662

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102555
Maine Waste Discharge License (WDL) Application #W002657-6C-D-R
Final Permit/License-Town of Mount Desert (Seal Harbor)

Dear Mr. Savage:

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

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

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

Sincerely,

Phyllis Arnold Rand

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

Enclosure

cc: Clarissa Trasko, DEP/EMRO
Sandy Mojica, USEPA
Doug Koopman, USEPA
Lori Mitchell, DMU

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF MOUNT DESERT (SEAL HARBOR)	)	MAINE POLLUTANT DISCHARGE
MOUNT DESERT, HANCOCK COUNTY	)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS	)	AND
ME0102555	)	WASTE DISCHARGE LICENSE
W002657-6C-D-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 TOWN OF MOUNT DESERT (SEAL HARBOR) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Application: The Town of Mount Desert ("permittee," hereinafter) has applied for a renewal of combination Waste Discharge License (WDL) #W002657-5L-C-R/ MEPDES Permit #ME0102555 ("permit"), which was issued on July 7, 2004 and expired on July 7, 2009. The 7/07/04 permit authorized the monthly average discharge of up to 0.250 million gallons per day (MGD) of secondary treated sanitary waste water from a publicly owned treatment works in Seal Harbor, Maine, to the Atlantic Ocean, Class SB, in Mount Desert, Maine. A site location map is included as **Attachment A** of this permit.

PERMIT SUMMARY

This permitting action is similar to the previous permitting action in that it is:

1. Carrying forward the requirement for removal of a minimum of 85% of BOD_5 and TSS.

2. Carrying forward the technology-based daily maximum concentration limit of 0.3 mL/L for settleable solids.

3. Carrying forward the daily maximum and monthly average technology-based concentration limits for total residual chlorine (TRC).

4. Carrying forward the technology-based pH limits.

5. Carrying forward the monthly average flow limit of 0.250 MGD.

6. Carrying forward the monthly average, weekly average and daily maximum technology-based mass and concentration limits for biochemical oxygen demand (BOD_5) and total suspended solids (TSS).

PERMIT SUMMARY (cont'd)

This permitting action is <u>different from</u> the previous permitting action in that it is:

1. Revising the daily maximum water quality-based mass and concentration limits for total copper.

2. Eliminating the whole effluent toxicity (WET) testing requirement for the inland silverside (*Menidia berrylina*).

3. Establishing a requirement to file an annual certification with the Department for dischargers having waived or reduced WET testing requirements.

4. Increasing the total copper monitoring frequency from once per year (1/Year) to twice per year (2/Year).

5. Reducing the WET surveillance-level monitoring frequencies for the mysid shrimp (*Mysidopsis bahia*) and sea urchin (*Arbacia punctulata*) from 1/Year to once every two years (1/2 Years).

6. Reducing the analytical chemistry surveillance-level monitoring frequency from 1/Year to 1/2 Years.

7. Establishing a priority pollutant screening-level monitoring frequency of 1/Year.

8. Establishing an analytical chemistry screening-level monitoring frequency of 1/Quarter.

9. Establishing a cyanide amenable to chlorination monitoring frequency of 2/Year.

10. Eliminating the full surveillance-level testing requirement for bis(2)ethylhexyl phthalate.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated September 25, 2009, and subject to the Conditions listed below, the Department makes the following conclusions:

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

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

3. The provisions of the State's antidegradation policy, 38 M.R.S.A. §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;

CONCLUSIONS (cont'd)

(b) Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;

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

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

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

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

ACTION

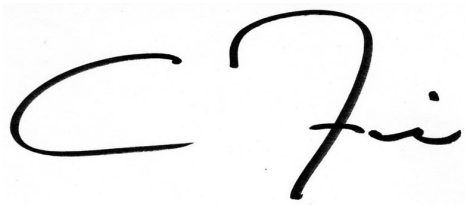
THEREFORE, the Department APPROVES the above noted application of the TOWN OF MOUNT DESERT (SEAL HARBOR) to discharge up to a monthly average flow of 0.250 MGD of secondary treated sanitary waste water from the Seal Harbor WWTF to the Atlantic Ocean, Class SB, in Mount, Maine, SUBJECT TO THE ATTACHED 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. The expiration date of this permit is 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
2009.09.29 09:56:21 -04'00'

Date of initial receipt of application: June 13, 2009
Date of application acceptance: June 13, 2009

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

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS[1]

1. **Beginning upon issuance of this permit,** the permittee is authorized to discharge secondary treated sanitary waste water from **Outfall #001A** to the Atlantic Ocean. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	0.250 MGD *[03]*	--	Report MGD *[03]*	---	--	---	Continuous *[99/99]*	Recorder *[RC]*
BOD_5 *[00310]*	63 lbs/day *[26]*	94 lbs/day *[26]*	104 lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	Composite *[24]*
BOD_5 Percent Removal[2] *[81010]*	--	--	--	85% *[23]*	--	--	1/Month *[01/30]*	Calculate *[CA]*
TSS *[00530]*	63 lbs/day *[26]*	94 lbs/day *[26]*	104 lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	Composite *[24]*
TSS Percent 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[3] *May 15-September 30 [31616]*	--	--	--	15/100 ml [4] *[13]*	--	50/100 ml *[13]*	1/Week *[01/07]*	Grab *[GR]*
Total Residual[5] **Chlorine** *[00665]*	--	--	--	0.1 mg/L *[19]*	--	0.18 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
Copper (Total) *[01042]*	--	--	0.13 lbs/day *[26]*	--	--	93 ug/L *[28]*	2/Year *[02/YR]*	Composite *[24]*
pH *[00400]*	--	--	--	--	--	6.0 – 9.0 SU *[12]*	1/Day *[01/01]*	Grab *[GR]*
Cyanide Amenable to Chlorination *[00722]*	---	---	0.02 lbs/day *[26]*	---	---	16 ug/L *[28]*	2/Year *[02/YR]*	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 8 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS(1) (cont'd)

2. SURVEILLANCE-LEVEL TESTING – Beginning upon issuance of this permit and lasting through 12 months prior to the expiration date of this permit.

Whole Effluent Toxicity (WET)(6)	**Daily Maximum**	**Minimum Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)** Invertebrate-**Mysid Shrimp** (*Mysidopsis bahia*) *[TDM3E]*	Report % *[23]*	1/2 Years *[01/2YR]*	Composite *[24]*
Chronic No Observed Effect Level **(C-NOEL)** Invertebrate-**Sea Urchin** (*Arbacia punctulata*) *[TBH3A]*	Report % *[23]*	1/2 Years *[01/2YR]*	Composite *[24]*
Analytical Chemistry(7) *[51477]*	Report ug/L *[28]*	1/2 Years *[01/2YR]*	Composite/Grab *[24/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 8 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS(1) (cont'd)

3. SCREENING-LEVEL TESTING – Beginning 12 months prior to the expiration date of this permit and lasting through permit expiration.

Whole Effluent Toxicity (WET)(6)	**Daily Maximum**	**Minimum Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)** Invertebrate-**Mysid Shrimp** (*Mysidopsis bahia*) *[TDM3E]*	Report % *[23]*	2/Year *[02/YR]*	Composite *[24]*
Chronic No Observed Effect Level **(C-NOEL)** Invertebrate-**Sea Urchin** (*Arbacia punctulata*) *[TBH3A]*	Report % *[23]*	2/Year *[02/YR]*	Composite *[24]*
Analytical Chemistry(7,8) *[51477]*	Report ug/L *[28]*	1/Quarter *[01/90]*	Composite/Grab *[24/GR]*
Priority Pollutants (8) *[50008]*	Report ug/L *[28]*	1/Year *[01/YR]*	Composite/Grab *[24/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 8 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES:

1. **Sampling** –

   All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process, including dechlorination when in use, as to be representative of end-of-pipe effluent characteristics. Any change in sampling location(s) other than those specified above must be reviewed and approved by the Department in writing.

   Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 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 (RL's) 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 as <X lbs/day, where X is the parameter-specific limitation established in the permit.

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

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

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

SPECIAL CONDITIONS

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

FOOTNOTES:

5. **Total Residual Chlorine -** TRC limits and monitoring requirements are applicable whenever elemental chlorine or chlorine-based compounds are being used to disinfect the discharge. TRC shall be tested using an EPA-approved method that is capable of bracketing the TRC concentration limitations in this permit.

6. **Whole Effluent Toxicity (WET)** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic receiving water concentrations of 7.1% and 1.1%, 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. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*). The critical acute and chronic thresholds were derived as the mathematical inverses of the applicable acute and chronic dilution factors of 14:1 and 91:1, respectively. See **Attachment B** of this permit for the Department's form for reporting WET concentration thresholds.

   Surveillance-level Testing – Beginning upon issuance of this permit and lasting through 12 months prior to the expiration date of this permit, the permittee shall conduct acute and chronic WET tests at a minimum frequency of one test every two years (1/2 Years). Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*). Chronic tests shall be conducted on the sea urchin (*Arbacia punctulata).*

   Screening-level Testing – Beginning 12 months prior to the expiration date of this permit and lasting through permit expiration, the permittee shall conduct WET testing at a minimum frequency of two times per year (2/Year) in different calendar quarters.

   Test results must be submitted to the Department no later than the next 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 7.1% and 1.1%, respectively.

   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 C of this permit each time a WET test is performed.

SPECIAL CONDITIONS

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

FOOTNOTES:

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

a. Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to Marine and Estuarine Organisms, Fifth Edition, October 2002, EPA-821-R-02-014.

b. Methods for Measuring the Acute Toxicity of Effluent and Receiving Waters to Freshwater and Marine Organisms, Third Edition, October 2002, EPA-821-R-02-012.

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.

Surveillance-level Testing – Beginning upon issuance of this permit and lasting through 12 months prior to the expiration date of this permit, the permittee shall conduct analytical chemistry testing at a minimum frequency of one test every two years.

Screening-level Testing – Beginning 12 months prior to the expiration date of this permit and lasting through permit expiration, the permittee shall conduct analytical chemistry testing at a minimum frequency of 1 test per calendar quarter.

8. **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).

a. **Screening-level testing** – **Beginning 12 months prior to the expiration date of this permit and lasting through permit expiration,** the permittee shall conduct priority pollutant testing at a minimum frequency of one per year (1/Year) in different calendar quarters. It is noted that Chapter 530 does not require routine surveillance-level testing for priority pollutants in the first four years of the term of this permit.

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 C** of this permit for a list of the Department's most current reporting levels (RL's) of detection.

SPECIAL CONDITIONS

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

FOOTNOTES:

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 toxicity reports for up to 10 business days after receiving the test results from the laboratory 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 aquatic water criteria 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.

All mercury sampling required to determine compliance with interim limitations established pursuant to Department Rule Chapter 519 shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses 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 D** of this permit for the Department's form for reporting mercury test results.

B. NARRATIVE EFFLUENT LIMITATIONS

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

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

3. The 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.

SPECIAL CONDITIONS

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 practices 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 TRC 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 at or below those specified in Special Condition A, "*Effluent Limitations and Monitoring Requirements,*" above.

D. LIMITATIONS FOR INDUSTRIAL USERS

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

E. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the wastewater treatment facility must hold a **Maine Grade III** certificate, or a Maine Professional Engineer's license 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 within two weeks of the contractor being retained by the licensee.

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 7/13/09; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of waste water from any other point source(s) are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass)* of this permit.

G. NOTIFICATION REQUIREMENTS

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

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

2. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system by a source introducing pollutants into the system at the time of permit issuance.

SPECIAL CONDITIONS

G. NOTIFICATION REQUIREMENTS (cont'd)

For the purposes of this section, notice regarding substantial change(s) shall include information on:

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

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

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 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 waste water treatment facility to ensure that it is up-to-date. The O&M Plan shall be kept on-site at all times and made available to Department and EPA personnel upon request.

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

I. WET WEATHER FLOW MANAGEMENT PLAN

On or before December 31, 2009 ***[PCS Code 96099]***, the treatment facility staff shall revise and maintain a Wet Weather Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The staff shall maintain a record that the plan has been reviewed annually and the changes documented, even if no changes have been made to the plan.

Within 90 days of completion of new and/or substantial upgrades of the waste water treatment facility, the permittee shall submit to the Department for review and approval, a new or revised Wet Weather Flow Management Plan which conforms to Department guidelines for such plans. The staff shall maintain a record that the plan has been reviewed annually and the changes documented, even if no changes have been made to the plan. The revised plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic tank wastes and other high-strength wastes if applicable) and provide written operating and maintenance procedures during the events.

SPECIAL CONDITIONS

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

On or before December 31 of each calendar year *(PCS Code 95799)*, the permittee is required to file a statement with the Department describing the following:

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

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

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

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

K. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the Department's compliance inspector (unless otherwise specified) at the following address:

Department of Environmental Protection
Eastern Maine Regional Office
Division of Water Quality Management
Bureau of Land and Water Quality
106 Hogan Road
Bangor, Maine 04401

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

SPECIAL CONDITIONS

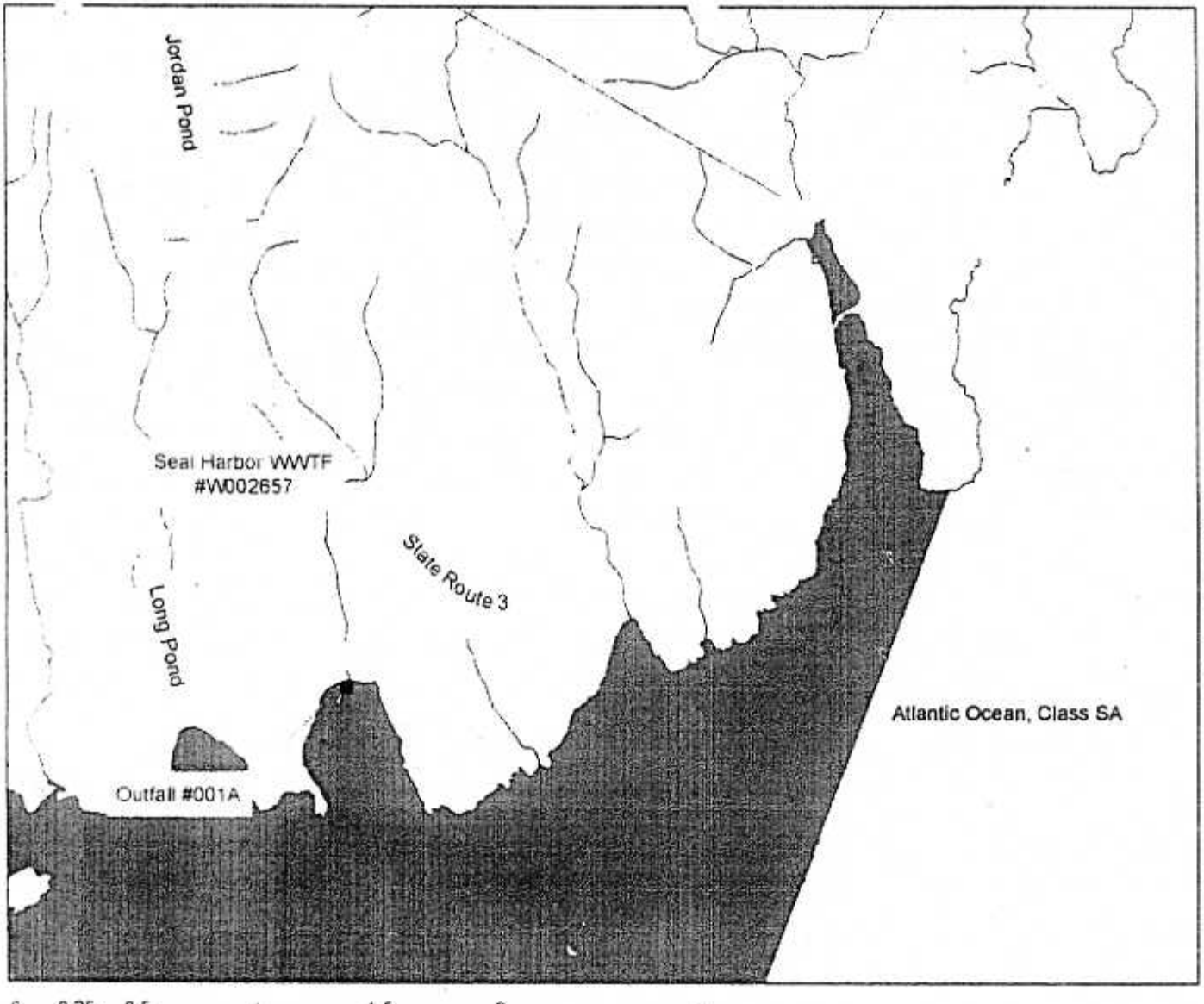
L. REOPENING OF PERMIT FOR MODIFICATIONS

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

M. 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



Legend

Wastewater_Facilities
Wastewater_Outfalls
Dams

Roads

Private
Park Road
Seasonal parkway
State aided
State hwy
Town Road - summer
Town Road - winter
Toll highway
Town Road
Ponds_and_Lakes

Coastal Water Class

SA
SB
SC
Streams

Shellfish_Closure_Areas

CLASS

Approved
Conditionally Restricted
Conditionally Approved
Restricted
Prohibited

0 0.25 0.5 1 1.5 2 Miles

Mount Desert, Maine

N

Map created by
William Hinkel
Division of Water Resource Regulation
May 27, 2004

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF MAINE

ATTACHMENT B

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS

Facility Name _____ MEPDES Permit # _____

Pipe # _____

Facility Representative _____ Signature _____

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

Facility Telephone # _____ Date Collected _____ Date Tested _____

mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

	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 C

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)					

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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									

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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:

ATTACHMENT D

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
WASTE DISCHARGE LICENSE

FACT SHEET

Date: September 25, 2009

MEPDES PERMIT: ME0102555
WASTE DISCHARGE LICENSE: W002657-6C-D-R

NAME AND ADDRESS OF APPLICANT:

TOWN OF MOUNT DESERT
P.O. Box 248
Northeast Harbor, Maine 04662

COUNTY: Hancock

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Seal Harbor Waste Water Treatment Facility (WWTF)
State Route 3
Seal Harbor, Maine 04675

RECEIVING WATER / CLASSIFICATION: Atlantic Ocean / Class SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Mr. Terry Savage
Chief Operator
(207) 276-5738
superintendentwwtp@mtdesert.org

1. APPLICATION SUMMARY

Application: The Town of Mount Desert ("Permittee") has applied for a renewal of Waste Discharge License (WDL) #W002657-5L-C-R/ MEPDES Permit #ME0102555 ("permit"), which was issued on July 7, 2004 and expired on July 7, 2009. The 7/07/04 permit authorized the monthly average discharge of up to 0.250 million gallons per day (MGD) of secondary treated sanitary waste water from a publicly owned treatment works in Seal Harbor, Maine, to the Atlantic Ocean, Class SB, in Mount Desert, Maine.

1. APPLICATION SUMMARY (cont'd)

b. Source Description: The permittee serves approximately 1,100 summer and 850 winter residential and commercial customers in the villages of Seal Harbor and Otter Creek, Maine. There are no significant industrial users within the collection system, no combined sewer overflow points and the facility is not authorized to receive septage from outside sources. The collection system has four (4) pump stations, each with backup emergency power sources, and is 100% separated (sanitary and storm water). The average daily and peak hourly flow design capacities are 0.250 MGD and 0.950 MGD, respectively.

c. Waste Water Treatment: Influent flows pass through a channel grinder or manual bypass screen positioned in an 18-inch diameter open channel located at the facility headworks building. Following influent screening, the flow continues to a 14,000 gallon preaeration reactor fitted with coarse-bubble diffusers. Next, the flow enters an anoxic selector basin and then to two circular aeration basins fitted with fine-bubble diffusers. From the aeration basins, the supernatant flows into two secondary clarifiers. After clarification, the flow is conveyed to a 16,800 gallon chlorine contact tank, which is segregated into two interconnected chambers. One chamber serves as a chlorine contact tank and the other chamber serves as a dechlorination contact zone. Disinfection is accomplished with either ultraviolet light or with sodium hypochlorite and then dechlorinated with sodium bisulfite. A schematic of the treatment process is included as Fact Sheet **Attachment A**.

The effluent is conveyed to the ocean via a 495-foot, 10-inch diameter ductile iron pipe. Attached to the end of the pipe is 12-inch, DR-17 HDPE butt-welded pipe extending approximately 507 feet. The effluent is discharged from eight diffusers at the end of the pipe, 5.8 feet below mean low water. A detailed drawing of the outfall diffusers is included as Fact Sheet **Attachment B**.

In the event that high flows overwhelm the treatment system, treatment plant staff has been instructed to put the second aeration tank and clarifier online if not already in use. If high flows continue after all tanks are online or otherwise unavailable, aeration blowers are to be turned off in order to retain the solids in the tanks.

2. PERMIT SUMMARY

a. **This permitting action is similar to the previous permitting action in that it is:**

1. Carrying forward the requirement for removal of a minimum of 85% of BOD_5 and TSS.

2. Carrying forward the technology-based daily maximum concentration limit of 0.3 mL/L for settleable solids.

2. PERMIT SUMMARY (cont'd)

3. Carrying forward the daily maximum and the monthly average technology-based concentration limits for total residual chlorine (TRC).

4. Carrying forward the technology-based pH range limits.

5. Carrying forward the monthly average flow limit of 0.250 MGD.

6. Carrying forward the monthly average, weekly average and daily maximum technology-based mass and concentration limits for biochemical oxygen demand (BOD_5) and total suspended solids (TSS).

This permitting action is <u>different from</u> the previous permitting action in that it is:

1. Revising the daily maximum water quality-based mass and concentration limits for total copper.

2. Eliminating the whole effluent toxicity (WET) testing requirement for the inland silverside (*Menidia berrylina*).

3. Establishing a requirement to file an annual certification with the Department for dischargers having waived or reduced WET testing requirements.

4. Increasing the total copper monitoring frequency from once per year (1/Year) to twice per year (2/Year).

5. Reducing the WET surveillance-level monitoring frequencies for the mysid shrimp (*Mysidopsis bahia*) and sea urchin (*Arbacia punctulata*) from 1/Year to once every two years (1/2 Years).

6. Reducing the analytical chemistry surveillance-level monitoring frequency from 1/Year to 1/2 Years.

7. Establishing a priority pollutant screening-level monitoring frequency of 1/Year.

8. Establishing an analytical chemistry screening-level monitoring frequency of 1/Quarter.

9. Establishing a cyanide amenable to chlorination monitoring frequency of 2/Year.

10. Eliminating the full surveillance-level testing requirement for bis(2)ethylhexyl phthalate.

2. PERMIT SUMMARY (cont'd)

b. Facility History: This section provides a summary of significant licensing, permitting and enforcement actions that have been completed for the Town of Mount Desert (TMD) Seal Harbor WWTF:

November 21, 1985 – The U.S. Environmental Protection Agency (USEPA) issued NPDES permit #ME0101354 to the Town of Mount Desert (TMD) for discharge of 0.15 MGD of secondary treated sanitary waste water from the Seal Harbor WWTF to the Atlantic Ocean. The permit expired on April 1, 1979 and superseded previous NPDES permits issued on 5/2/79 and 5/2/74.

August 22, 1991 – The USEPA issued NPDES permit #ME0101346 thereby administratively consolidating the discharges of secondary treated sanitary waste water from four POTW's located in and operated by the TMD. This permitting action superseded four NPDES permits previously issued to the TMD for the discharges from the Seal Harbor WWTF (previously #ME0101354), the Somesville WWTF (previously #ME0101362), the Northeast Harbor WWTF (previously #ME0101346), and the Otter Creek WWTF (previously #ME0101338).

August 12, 1997 – The Department issued WDL #W002657-59-B-R to TMD for the discharge of 0.15 MGD of secondary treated sanitary waste water from the Seal Harbor WWTF to the Atlantic Ocean for a five-year term. This WDL superseded WDL #2657 issued on 2/28/79 and WDL #442 issued on 3/25/74.

August 27, 1997 – The USEPA issued NPDES permit #ME0101346 thereby administratively consolidating the discharge of treated sanitary waste water from the Seal Harbor II WWTF, which had not been previously permitted through the NPDES program, with the four other facilities permitted in the 8/22/91 NPDES permit. This permitting action superseded the 8/22/91 action and expired on March 31, 2002. This permit required reporting of the monthly average and daily maximum flows from each facility and did not establish numeric discharge flow limitations.

May 23, 2000 – The Department administratively modified WDL#W002657-59-B-R by establishing interim average and maximum concentration limits for the discharge of mercury.

December 12, 2002 – The TMD submitted separate General Applications to the Department for the renewal of WDL #W002657-59-B-R (Seal Harbor I WWTF), WDL #W002658-59-B-R (Otter Creek WWTF), and WDL #W001007-58-B-R (Seal Harbor II WWTF). All waste water flows currently conveyed to the Seal Harbor II and Otter Creek WWTF's for treatment will be conveyed to the upgraded Seal Harbor WWTF. Upon completion of the Seal Harbor consolidation project and elimination of the discharges from the Otter Creek and Seal Harbor II WWTF's, the Department retired the waste discharge licenses for these two facilities.

2. PERMIT SUMMARY (cont'd)

November 17, 2003 – The TMD submitted, as an addendum to their 12/12/02 application, a plan to the Department's Bureau of Land and Water Quality, Division of Water Resource Regulation entitled, "*Seal Harbor Wastewater Treatment Plant, Treatment Plant Upgrade*," prepared by Olver Associates, Inc., and dated August 2003. This plan was the basis for the establishment of TIER II limitations in this permitting action.

January 20, 2004 – The Department finalized an Administrative Consent Agreement and Enforcement Order with the Town of Mount Desert for violations of effluent limitations at the Seal Harbor I, Otter Creek, Somesville and Northeast Harbor WWTF's. The enforcement order required the TMD to submit design and contract documents for the consolidation of the Otter Creek and Seal Harbor WWTF's. The Enforcement Order also required the TMD to complete construction and begin operation of the consolidated WWTF in Seal Harbor by June 30, 2005.

April 10, 2006 – The Department issued a permit modification that implemented the testing requirements for Department rule 06-096 CMR, Chapter 530, *Surface Water Toxics Control Program*.

July 13, 2009 – The TMD submitted a complete application to renew the WDL/MEPDES permit for the Seal Harbor facility.

3. CONDITIONS OF PERMITS

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

4. RECEIVING WATER QUALITY STANDARDS

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

5. RECEIVING WATER QUALITY CONDITIONS

The *2008 Integrated Water Quality Report* published by the Department pursuant to Section 305(b) of the Federal Water Pollution Control Act lists the Atlantic Ocean at the point of discharge in a table entitled "*Category 3: Estuarine And Marine Waters With Insufficient Data Or Information To Determine Attainment.*" Attainment in this context is in regard to the designated use of harvesting of shellfish. Maine Department of Marine Resources Chapter 95.04(S), Area #44, section A(3), is closed to the harvesting of shellfish "due to pollution." Compliance with the fecal coliform bacteria limits in this permitting action ensures that the discharge from the permittee will not cause or contribute to the shellfish harvesting closure. The shellfish closure area is on the map included as Fact Sheet **Attachment C**.

Table Category 5-D of the *"Estuarine and Marine Waters Impaired by Legacy Pollutants"* in the *2008 Integrated Water Quality Report* lists all estuarine and marine waters as partially supporting fishing (shellfish consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomalley. The Department is not aware of any information that indicates the permittee is discharging persistent or bioaccumulating substances that cause or contribute to the non-attainment.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Dilution Factors: Department Regulation Chapter 530, *Surface Water Toxics Control Program*, §D(3)(b) 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 level and slack tide for the acute exposure analysis and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE or CORMIX.

With a permitted flow of 0.250 MGD and the location and configuration of the outfall structure, the Department has established dilution factors for the permittee as follows:

Acute = 14:1 Chronic = 91:1 Harmonic Mean[(1)] = 273:1

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 U.S. EPA 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)

b. Flow: This permitting action is carrying forward the monthly average discharge flow limitation of 0.250 MGD for Outfall #001A, which is based on the average dry weather design criterion, and is carrying forward the daily maximum discharge flow reporting requirement.

A review of the monthly DMR data for the period June 2005 – June 2009 indicates the following:

Flow (n=45)

Value	Limit (MGD)	Range (MGD)	Average (MGD)
Monthly Average	0.250	0.042 – 0.293	0.129
Daily Maximum	Report	0.043 – 1.07	0.363

c. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS): This permitting action is carrying forward monthly and weekly average BOD_5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L respectively, that were based on secondary treatment requirements as defined in Department rule Chapter 525(3)(III). This permitting action is carrying forward the maximum daily BOD_5 and TSS concentration limits of 50 mg/L based on a Department best professional judgment (BPJ) of BPT.

The monthly average, weekly average and daily maximum technology-based mass limitations for BOD_5 and TSS are being carried forward in this permitting action and are based on a monthly flow of 0.250 MGD.

The mass limits were derived as follows:

Monthly average: (0.250 MGD)(8.34)(30 mg/L) = 63 lbs/day
Weekly average: (0.250 MGD)(8.34)(45 mg/L) = 94 lbs/day
Daily Maximum: (0.250 MGD)(8.34)(50 mg/L) = 104 lbs/day

This permitting action is carrying forward the requirements of 85% removal for BOD_5 and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3).

A review of the DMR data for the period June 2005 – June 2009 indicates the monthly average and daily maximum mass and concentration values have been reported as follows:

BOD_5 Mass (n=45)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	63	1 – 48	8
Daily Maximum	104	1 – 223	16

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

BOD_5 Concentration (n=45)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	2 – 65	11
Daily Maximum	50	2 – 65	11

TSS mass (n=45)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	63	1 – 105	13
Daily Maximum	104	1 – 504	33

TSS concentration (n=45)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	1 – 147	20
Daily Maximum	50	1 – 147	20

The reported maximum values for both BOD5 and TSS were generated on 3/31/09. These values are not representative of the facility's historical data, which is approximately ten times less than the reported maximum values.

This permitting action is carrying forward the BOD_5 and TSS monitoring frequency requirements of **once per week (1/week)**.

d. Settleable Solids: This permitting action is carrying forward a daily maximum concentration limit of 0.3 mL/L for settleable solids, which is considered by the Department as BPT for secondary treated waste water. This permitting action is carrying forward the minimum monitoring frequency of once per day (1/day) based upon Department guidance for facilities licensed to discharge between 0.1 and 0.5 MGD.

A review of the DMR data for the period June 2005 – June 2009 indicates the daily maximum settleable solids concentration values have been reported as follows:

Settleable Solids (n=44)

Value	Limit (mL/L)	Range (mL/L)	Average (mL/L)
Daily Maximum	0.3	0 – 40	2.0

e. Fecal coliform bacteria: The previous permitting action established monthly average (geometric mean) and daily maximum (instantaneous) water quality-based concentration limits for fecal coliform bacteria of 15 colonies/100 mL and 50 colonies/100 mL, respectively, which are consistent with the National Shellfish Sanitation Program and are being carried forward in this permitting action.

This permitting action is carrying forward the monitoring requirement of once per week (1/week) based on Department guidance for facilities with flows between 0.1 – 0.5 MGD.

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

A review of the monthly DMR data for the period June 2005 – June 2009 indicates the monthly average and daily maximum fecal coliform values have been reported as follows:

Fecal coliform bacteria (n=16)

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	15	0 – 5	2
Daily Maximum	50	0 – 60	14

For calculation purposes, results reported as "less than" or "greater than" were considered present at the detection limit.

f. Total Residual Chlorine (TRC): This permitting action is carrying forward the monthly average TRC concentration limit of 0.1 mg/L from the previous permitting action. This permitting action is carrying forward the daily maximum TRC concentration limit of 0.18 mg/L as established in the previous permitting action.

Limits 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 limit. End-of-pipe water quality-based concentration thresholds may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated Acute Limit	Calculated Chronic Limit
0.013 mg/L	0.0075 mg/L	14:1 (A) 91:1 (C)	0.18 mg/L	0.68 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. The Department has determined that facilities with a water quality-based threshold below 0.80 mg/L should dechlorinate the final effluent prior to discharge in order to consistently meet water quality-based discharge limitations and fecal coliform bacteria limits.

For facilities that need to dechlorinate their effluent, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. The Department has determined that the Seal Point WWTF must dechlorinate the final effluent in order to meet the daily maximum water quality-based limit. Therefore, the Department is establishing the more stringent acute water quality-based limit of

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

0.18 mg/L as a daily maximum limitation and the more stringent BPT-based monthly average limitation of 0.1 mg/L. This permitting action is carrying forward a TRC minimum monitoring frequency of once per day based on Department guidance for facilities with design flows between 0.1 – 0.5 MGD.

A review of the DMR data for the period June 2005 – June 2009 indicates the daily maximum and monthly average TRC values have been reported as follows:

Total residual chlorine (n=10)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	0.18	0.02 – 0.10	0.05
Monthly Average	0.1	0.01 – 0.04	0.02

g. pH: This permitting action is carrying forward the pH range limitation of 6.0 – 9.0 standard units found in Department rule Chapter 525(3)(III) which is considered BPT. This permitting action is carrying forward the minimum monitoring frequency of once per day (1/Day) consistent with Department guidance for facilities licensed to discharge between 0.1 and 0.5 MGD.

A review of the DMR data for the period June 2005 – June 2009 indicates the daily maximum and monthly average pH values have been reported as follows:

pH (n=45)

Value	Limit (SU)	Range (SU)
Daily Maximum	6.0 – 9.0	6.9 – 9.7

h. Whole Effluent Toxicity (WET) and Chemical Specific Testing – Maine law, 38 M.R.S.A., Sections 414-A and 420, prohibits the discharge of effluent 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 test results. The monitoring schedule includes consideration of results currently on file, the nature of the waste water, existing treatment and receiving water characteristics.

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

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 WET tests are performed on the mysid shrimp; chronic tests are performed on the sea urchin. 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 (2)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing.

Based on the Chapter 530 criteria, the permittee falls into the Level II frequency category as the facility has a chronic dilution factor of 91:1. Chapter 530(2)(D)(1) specifies that default surveillance- and screening-level testing requirements are as follows:

Surveillance-level testing

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	1 per year	None required	2 per year

Screening-level testing

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

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 results and test dates.

WET Test Evaluation

On June 19, 2009, the Department conducted a statistical evaluation on the most recent 60 months of WET test results on file with the Department in accordance with the statistical approach in Chapter 530. 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

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

for said species are not considered in statistical evaluations in this permitting action. The 6/19/09 WET statistical evaluation indicates the discharge from the permittee's waste water treatment facility does not exceed nor has the reasonable potential to exceed the acute or chronic water quality thresholds for any of the species tested to-date. The critical acute and chronic thresholds (7.1% and 1.1%) were derived as the mathematical inverses of the applicable acute and chronic dilution factors of 14:1 and 91:1, respectively.

Department rule Chapter 530(2)(D)(3)(c) states in part, "*Dischargers in Level II may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*"

Based on the results of the 6/19/09 statistical evaluation, the permittee qualifies for the Chapter 530(2)(D)(3)(c) reduction for WET testing. Therefore, this permitting action is establishing the following testing requirements for the mysid shrimp and sea urchin as follows:

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

Surveillance-level testing

Level	WET Testing
II	1/2 years for the mysid shrimp 1/2 years for the sea urchin

Beginning 12 months prior to the expiration date of this permit and lasting through permit expiration:

Screening-level testing

Level	WET Testing
II	2 per year for the mysid shrimp 2 per year for the sea urchin

Chapter 530 §(2)(D) states:

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

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

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

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

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

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

i. Analytical Chemistry and Priority Pollutant Testing Evaluation

Monitoring frequencies for analytical chemistry and priority pollutant testing established in this permitting action are based on the Chapter 530 rule. Department rule Chapter 530(D)(3)(c) states in part, "*Dischargers in Level II may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*"

Statistical analyses of the permittee's effluent data over the most recent 60 months indicates the permittee had two test results (62.7 ug/L on 9/11/05 and 27.3 ug/L on 1/23/06) that have a reasonable potential to exceed the acute water quality criterion for total copper. The permittee had one test result (6.0 ug/L on 10/13/08) that possibly exceeds or has the reasonable potential to exceed the acute water quality criterion for cyanide amenable to chlorination.

It is noted test results submitted to the Department to-date are all total cyanide and not cyanide amenable to chlorination, making it impossible to determine actual exceedences or reasonable potential to exceed AWQC for cyanide amenable to chlorination. As a result, the Department is not requiring the permittee to conduct a TRE until at least four test results (equivalent to screening-level testing) for cyanide amenable to chlorination are submitted to the Department and statistically evaluated.

Chapter 530 §(3)(D) states *"Expression of effluent limits. Where the need for effluent limits has been determined, limits derived from acute water quality criteria must be expressed as daily maximum values. Limits derived from chronic or human health criteria must be expressed as monthly average values."*

Given the results of the 6/19/09 statistical evaluation, the end-of-pipe (EOP) limitations for total copper and cyanide amenable to chlorination were derived as follows:

Copper (Total):

Acute AWQC = 5.78 ug/L
Acute dilution factor = 14:1
EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
EOP = [14 x 0.75 x 5.78 ug/L] + [0.25 x 5.78 ug/L] = 62.1 ug/L

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

Cyanide Amenable to Chlorination:

Acute AWQC = 1.0 ug/L
Acute dilution factor = 14:1
EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
EOP = [14 x 0.75 x 1.0 ug/L] + [0.25 x 1.0 ug/L] = 10.8 ug/L

Based on a permitted flow of 0.250 MGD, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Daily Max. Mass Limit
Copper	62.1 ug/L	0.13 lbs/day
Cyanide Amenable to Chlorination	10.8 ug/L	0.02 lbs/day

Example Calculation, Copper: $\frac{(62.1 \text{ ug/L})(8.34)(0.250 \text{ MGD})}{1{,}000 \text{ ug/mg}} = 0.13$ lbs/day

Chapter 530 §(3)(D)(1) states "*For specific chemicals, effluent limits must be expressed in total quantity that may be discharged and in effluent concentration. In establishing concentration, the Department may increase allowable values to reflect actual flows that are lower than permitted flows and/or provide opportunities for flow reductions and pollution prevention provided water quality criteria are not exceeded. With regard to concentration limits, the Department may review past and projected flows and set limits to reflect proper operation of the treatment facilities that will keep the discharge of pollutants to the minimum level practicable.*"

As not to penalize the permittee for operating at flows less than the permitted flow, the Department is establishing concentration limits based on a factor of 1.5. Therefore, the daily maximum concentration limits for total copper and cyanide amenable to chlorination are being established as follows:

Parameter	Calculated EOP Concentration	Monthly Average	Daily Maximum
Copper	62.1 ug/L	---	93 ug/L
Cyanide	10.8 ug/L	---	16 ug/L

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

A summary of the water quality based mass and concentration limits for toxic pollutants established in this permit are as follows:

Parameter	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum
Copper	---	0.13 lbs/day	---	93 ug/L
Cyanide	---	0.02 lbs/day	---	16 ug/L

Chapter 530 does not establish specific monitoring frequencies for parameters that exceed or have a reasonable to exceed AWQC. Based on the timing, severity and frequency of occurrences of the exceedences or reasonable potential to exceed applicable critical water quality thresholds, this permitting action is making a best professional judgment to establish the monitoring frequency for total copper and cyanide amenable to chlorination at the default screening-level frequency of 2/Year specified in Chapter 530.

As for the remaining parameters tested to-date, the statistical evaluation indicates there are no exceedences or reasonable potential to exceed AWQC. 530(D)(3)(c) states in part, "*Dischargers in Level II may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*"

With the exception of copper and cyanide amenable to chlorination, the permittee qualifies for the waiver in priority pollutant and analytical chemistry testing. Therefore, this permitting action is establishing surveillance-level analytical testing requirements as follows:

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

Surveillance-level testing

Level	Priority pollutant testing	Analytical chemistry
II	None required	1/2 year

Department rule Chapter 530 (2)(D)(1) specifies that screening-level testing is to be established for analytical chemistry and priority pollutant testing requirements as follows:

Beginning 12 months prior to the expiration date of this permit and lasting through permit expiration:

Screening-level testing

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

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

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

In the event future statistical evaluations demonstrate that the reasonable potential to exceed AWQC is no longer applicable for copper and cyanide amenable to chlorination, or that the result(s) in question fall outside the 60 month evaluation period, this permit may be reopened pursuant to Special Condition L, *Reopening of Permit For Modifications*, of this permit to remove the limitation(s) and/or reduce the monitoring requirement(s).

j. Mercury: May 23, 2000 – 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 thereby administratively modifying WDL #W002657-59-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 9.4 parts per trillion (ppt) and 14.1 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. It is noted the limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as limitations and monitoring frequencies are regulated separately through 38 M.R.S.A.§ 413 and 06-096 CMR 519. However, the interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

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 period November 2006 through the present indicates mercury test results reported have ranged from 1.4 ppt to 10 ppt with an arithmetic mean (n=12) of 4.0 ppt.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the *Bar Harbor Times* newspaper on or about July 9, 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:

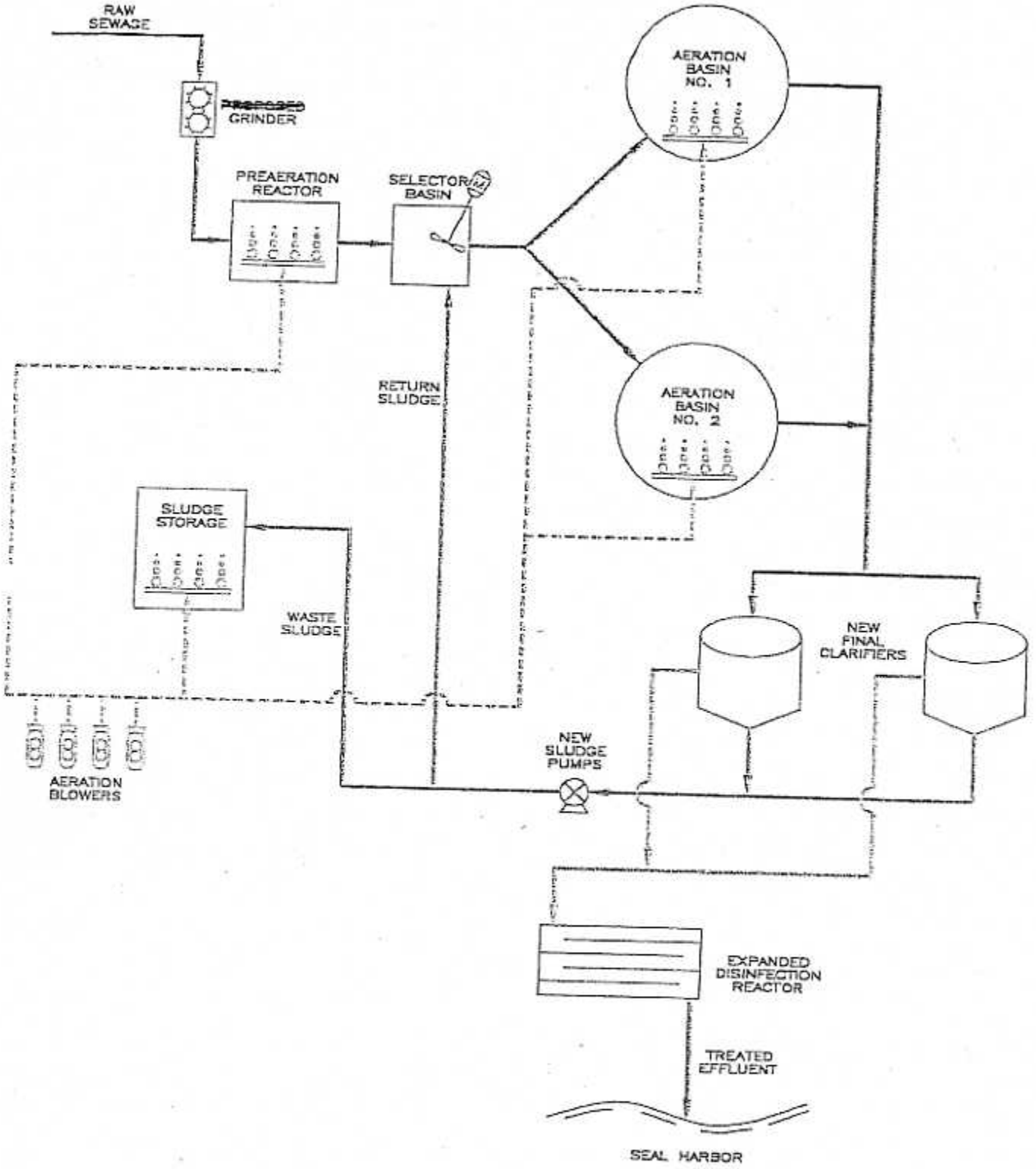
Phyllis A. Rand
Division of Water Quality management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
Telephone: (207) 287-7658 email: Phyllis.A.Rand@maine.gov

10. RESPONSE TO COMMENTS

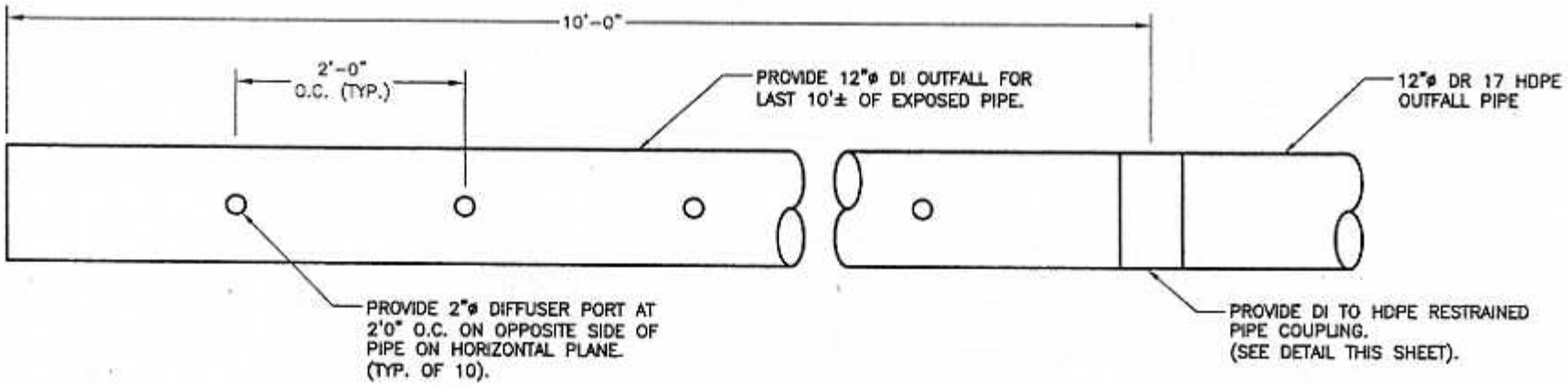
During the period of August 21, 2009 through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the Town of Mount Desert (Seal Harbor). The Department did not receive comments from the permittee, state 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

SEAL HARBOR WASTEWATER TREATMENT FACILITY



ATTACHMENT B



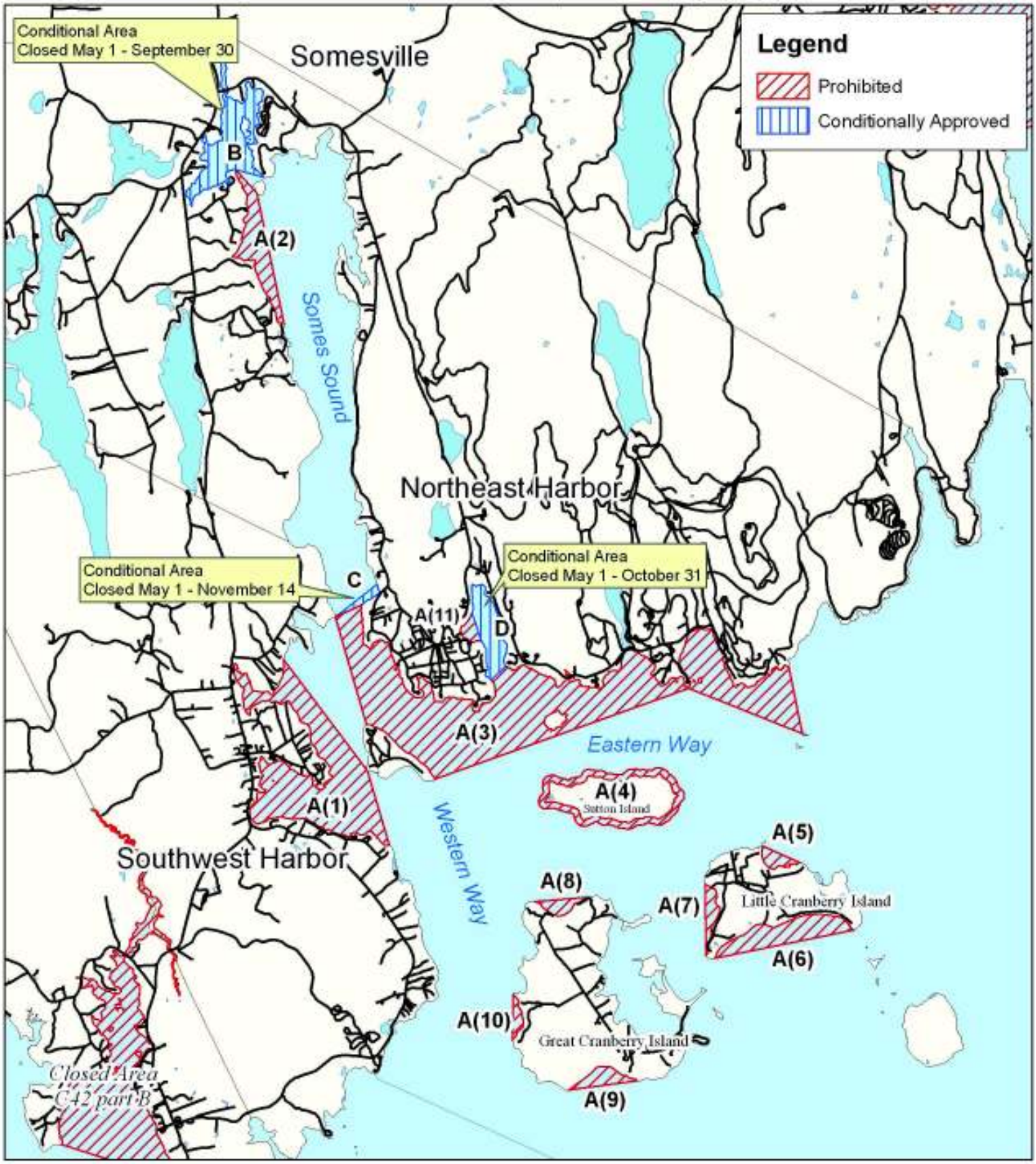
OUTFALL MULTIPORT DIFFUSER DETAIL

ATTACHMENT C

Maine Department of Marine Resources

Pollution Closed Area No. 44

Southwest Harbor, Somes Sound, Somesville, Northeast Harbor, and the Cranberry Isles
(Southwest Harbor, Mount Desert, and Cranberry Isles) 03/18/09



ATTACHMENT D

Species	Test	Test Result %	Sample Date
MYSID SHRIMP	A_NOEL	100	03/24/2002
MYSID SHRIMP	LC50	>100	03/24/2002
SEA URCHIN	C_NOEL	100	03/24/2002
SILVER SIDE	A_NOEL	100	03/24/2002
SILVER SIDE	LC50	>100	03/24/2002
SILVER SIDE	A_NOEL	100	04/21/2002
SILVER SIDE	C_NOEL	100	04/21/2002
SILVER SIDE	LC50	>100	04/21/2002
MYSID SHRIMP	A_NOEL	100	08/11/2002
MYSID SHRIMP	LC50	>100	08/11/2002
SEA URCHIN	C_NOEL	100	08/11/2002
SILVER SIDE	A_NOEL	100	08/11/2002
SILVER SIDE	C_NOEL	100	08/11/2002
SILVER SIDE	LC50	>100	08/11/2002
MYSID SHRIMP	A_NOEL	100	03/24/2003
MYSID SHRIMP	LC50	>100	03/24/2003
SEA URCHIN	C_NOEL	100	03/24/2003
SILVER SIDE	A_NOEL	100	03/24/2003
SILVER SIDE	C_NOEL	100	03/24/2003
SILVER SIDE	LC50	>100	03/24/2003
MYSID SHRIMP	A_NOEL	100	09/14/2003
MYSID SHRIMP	LC50	>100	09/14/2003
SEA URCHIN	C_NOEL	100	09/14/2003
SILVER SIDE	A_NOEL	100	09/14/2003
SILVER SIDE	C_NOEL	100	09/14/2003
SILVER SIDE	LC50	>100	09/14/2003
MYSID SHRIMP	A_NOEL	100	12/16/2003
MYSID SHRIMP	LC50	>100	12/16/2003
MYSID SHRIMP	A_NOEL	100	02/29/2004
MYSID SHRIMP	LC50	>100	02/29/2004
SEA URCHIN	C_NOEL	100	02/29/2004
SILVER SIDE	A_NOEL	100	02/29/2004
SILVER SIDE	C_NOEL	100	02/29/2004
SILVER SIDE	LC50	>100	02/29/2004
MYSID SHRIMP	A_NOEL	100	09/11/2005
MYSID SHRIMP	LC50	>100	09/11/2005
SEA URCHIN	C_NOEL	100	09/11/2005
MYSID SHRIMP	A_NOEL	>100	01/23/2006
SEA URCHIN	C_NOEL	100	01/23/2006
MYSID SHRIMP	A_NOEL	>100	10/13/2008
SEA URCHIN	C_NOEL	25	10/13/2008

ATTACHMENT E

PP Data for "Hits" Only

MT. DESERT SEAL HARBOR

SEAL HARBOR

ARSENIC
MDL = 5 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	1.000000	OK	09/11/2005	03/23/2006
	1.000000	OK	10/13/2008	04/01/2009
	1.000000	OK	08/24/2008	12/10/2008
<	1.000000	OK	01/23/2006	01/09/2007

CHLOROFORM
MDL = 5.0 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	36.000000	OK	09/11/2005	03/23/2006
<	2.000000	OK	10/13/2008	04/01/2009

COPPER
MDL = 3 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	22.900000	OK	12/10/2007	02/28/2008
	23.400000	OK	10/13/2008	04/01/2009
	23.400000	OK	08/24/2008	12/10/2008
RP →	27.300000	OK	01/23/2006	01/09/2007
	28.500000	OK	02/29/2004	06/30/2004
RP →	62.700000	OK	09/11/2005	03/03/2006

CYANIDE
MDL = 5 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
RP →	6.000000	OK	10/13/2008	04/01/2009
<	2.000000	OK	09/11/2005	03/23/2006
<	2.000000	OK	08/24/2008	12/10/2008
<	2.000000	OK	01/23/2006	01/09/2007

DICHLOROBROMOMETHANE
MDL = 3.0 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	5.000000	OK	09/11/2005	03/23/2006
<	2.000000	OK	10/13/2008	04/01/2009

MERCURY
MDL = .001 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	0.001400	OK	06/11/2007	10/01/2007
	0.001500	OK	04/21/2008	08/11/2008
	0.001900	OK	02/06/2007	05/03/2007
	0.002000	OK	11/27/2006	01/09/2007
	0.002100	OK	01/05/2009	04/09/2009
	0.002400	OK	12/18/2007	02/25/2008
	0.002500	OK	10/28/2008	01/12/2009
	0.004600	OK	03/09/2004	06/16/2004
	0.005500	OK	06/23/2008	08/11/2008
	0.008000	OK	10/16/2007	02/25/2008
	0.009000	OK	02/20/2008	08/11/2008
	0.010000	OK	09/11/2007	10/24/2007
*	~~2100.00000~~ 0.00210	OK	01/05/2009	04/09/2009

* Typographical Error

Sample Date: 09/11/2005
Plant flows provided

Total Tests:	131	mon.(MGD)= 0.084
Missing Compounds:	1	day(MGD)= 0.090
Tests With High DL:	0	

M = 0 V = 0 A = 0

BN = 0 P = 0 other = 0

Sample Date: 10/13/2008
Plant flows provided

Total Tests:	129	mon.(MGD)= 0.102
Missing Compounds:	1	day(MGD)= 0.084
Tests With High DL:	0	

M = 0 V = 0 A = 0

BN = 0 P = 0 other = 0

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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.