STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

May 4, 2010

Allan Moir, Superintendent
Sewer Department
Town of Kennebunkport
P.O. Box 1038
Kennebunkport, ME. 04046

RE: Maine Pollutant Discharge Elimination System Permit (MEPDES) ME0101184
Maine Waste Discharge License (WDL) Application W002626-6C-E-R
Final Permit/License

Dear Mr. Moir:

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

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

If you have any questions regarding this matter, please feel free to call me at 287-7658.

Sincerely,

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

Enc. Matt Hight, DEP/SMRO
Sandy Mojica, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF KENNEBUNKPORT	) MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS	) ELIMINATION SYSTEM PERMIT
KENNEBUNKPORT, YORK COUNTY	) AND
ME0101184	) WASTE DISCHARGE LICENSE
W002626-6C-F-R **APPROVAL**	) **RENEWAL**

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, etc. seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the TOWN OF KENNEBUNKPORT (Town/permittee hereinafter), with its supportive data, agency review comments, and other related material on file and finds the following facts:

APPLICATION SUMMARY

The permittee has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0101184/ Maine Waste Discharge License (WDL) #W002626-5L-E-R (permit hereinafter) which was issued by the Department on June 22, 2005 and is due to expire on June 22, 2010. The permit authorized the monthly average discharge of up to 0.70 million gallons per day (MGD) of secondary treated sanitary waste water from a publicly owned treatment works (POTW) to the Kennebunk River, Class SB, in Kennebunkport, Maine.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the June 22, 2005 permitting action except that this permitting action is:

1. Establishing a water quality based acute no observed effect level (A-NOEL) limit for the mysid shrimp *(Mysidopsis bahia)* and a chronic no observed effect level (C-NOEL) limit for the sea urchin *(Arbacia punctulata).*

2. Eliminating the inland silverside (*Menidia berrylina)* as a whole effluent toxicity (WET) test species.

3. Establishing monthly average and or water quality based mass and concentration limits for ammonia, arsenic and cyanide (amenable to chlorination).

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated March 25, 2010, 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;

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

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

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

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

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

ACTION

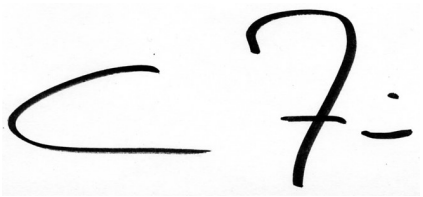
THEREFORE, the Department APPROVES the above noted application of the TOWN OF KENNEBUNKPORT to discharge a monthly average flow of up to 0.70 MGD of secondary treated sanitary wastewater to the tidewaters of the Kennbunk River, Class SB, in Kennebunkport, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

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

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

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

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date.
2010.05.04 12:33:53 -04'00'

Date of initial receipt of application: March 3, 2010 .
Date of application acceptance: March 5, 2010 .

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY
ME0101184 2010 5/4/10

SPECIAL CONDITIONS
A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of this permit, the permittee is authorized to discharge secondary treated sanitary waste water from **Outfall #001** to the tidewaters of the Kennebunk River, Class SB. Such discharges shall be limited and monitored by the permittee as specified below[(1)]. The italicized numeric values bracketed in the table below and the tables that follow are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports. See pages 8 and 9 of this permit for applicable footnotes.

Effluent Characteristic	Discharge Limitations			Minimum Monitoring Requirements				
	Monthly Average	**Weekly Average**	**Daily Maximum**	**Monthly Average**	**Weekly Average**	**Daily Maximum**	**Measurement Frequency**	**Sample Type**
Flow *[50050]*	0.70 MGD *[03]*	---	Report MGD *[03]*	---	---	---	Continuous *[99/99]*	Recorder *[RC]*
BOD_5 *[00310]*	175 lbs./day *[26]*	263 lbs./day *[26]*	292 lbs./day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	2/Week *[02/07]*	24-Hour Composite *[24]*
BOD_5 Percent Removal[(2)] *[81010]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
TSS *[00530]*	175 lbs./day *[26]*	263 lbs./day *[26]*	292 lbs./day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	2/Week *[02/07]*	24-Hour 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 Bacteria[(3)] *[31616]* *(Year-round)*	---	---	---	15/100 ml[(4)] *[13]*	---	50/100 ml *[13]*	2/Week *[02/07]*	Grab *[GR]*
Total Residual Chlorine[(5)] *[50060]*	---	---	---	---	---	0.056 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
pH *[00400]*	---	---	---	---	---	6.0 – 9.0 SU *[12]*	1/Day *[01/01]*	Grab *[GR]*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	**Daily Maximum As specified**	**Monthly Average as specified**	**Daily Maximum as specified**	**Measurement Frequency as specified**	**Sample Type as specified**
Ammonia (as N) *[00610]*	85 lbs./day*[26]*	---	29,000 ug/L*[19]*	---	1/Quarter *[01/901*	24-Hour Composite *[24]*
Arsenic (Total) **(6)** *[01002]* *(Upon permit issuance)*	Report lbs./day*[26]*	---	Report ug/L*[19]*	---	1/Quarter *[01/901*	24-Hour Composite *[24]*
Arsenic (Inorganic) **(7)** *[01252]* *(Upon EPA method approval)*	0.007 lbs./day*[26]*	---	1.2 ug/L*[19]*	---	1/Quarter *[01/901*	24-Hour Composite *[24]*
Copper (Total) *[01042]*	0.32 lbs./day*[26]*	0.12 lbs./day*[26]*	108 ug/L *[19]*	40 ug/L*[19]*	1/Quarter *[01/901*	24-Hour Composite *[24]*
Cyanide (Amenable to chlorination) *[00722]*	---	0.02 lbs./day*[26]*	---	7.0 ug/L*[19]*	1/Quarter *[01/901*	24-Hour Composite *[24]*

Footnotes: See pages 8 and 9 of this permit for applicable footnotes.

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

SURVEILLANCE LEVEL TESTING: Beginning upon issuance of this permit and last through 12 months prior to permit expiration.

Whole Effluent Toxicity (WET) [8]	**Daily Maximum**	**Minimum Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)**			
Invertebrate-Mysid Shrimp (*Mysidopsis bahia*) *[TDA3E]*	23 % *[23]*	2/Year *[02/YR]*	Composite *[24]*
Chronic No Observed Effect Level **(C-NOEL)**			
Invertebrate-Sea Urchin (*Arbacia punctulata*) *[TBH3A]*	5.3 % *[23]*	2/Year *[02/YR]*	Composite *[24]*
Analytical Chemistry[9] *[51477]*	Report ug/L *[28]*	1/Year *[01/YR]*	Composite/Grab *[24/GR]*

SCREENING LEVEL TESTING: Beginning 12 months prior to permit expiration and lasting through permit expiration for Outfall #001.

Whole Effluent Toxicity (WET) [8]	**Daily Maximum**	**Minimum Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)**			
Invertebrate-Mysid Shrimp (*Mysidopsis bahia*) *[TDA3E]*	23 % *[23]*	1/Quarter *[01/90]*	Composite *[24]*
Chronic No Observed Effect Level **(C-NOEL)**			
Invertebrate-Sea Urchin (*Arbacia punctulata*) *[TBH3A]*	5.3 % *[23]*	1/Quarter *[01/90]*	Composite *[24]*
Analytical Chemistry[9] *[51477]*	Report ug/L *[28]*	1/Quarter *[01/90]*	Composite/Grab *[24/GR]*
Priority Pollutant[10] *[50008]*	Report ug/L *[28]*	1/Year *[01/YR]*	Composite/Grab *[24/GR]*

Footnotes: See pages 8 and 9 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes:

1. **Monitoring –** All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Any change in sampling location must be approved by the Department in writing.

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

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

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

3. **Bacteria –** Fecal coliform bacteria limits and monitoring requirements are in effect year-round at the request of the Maine Department of Marine Resources in order to protect local shellfish resources near the outfall and to protect the health, safety and welfare of the public utilizing the receiving waters in the non-summer months.

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

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

Footnotes:

5. **Total Residual Chlorine** – Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee shall utilize approved test methods that are capable of bracketing the limitations in this permit.

6. **Arsenic (Total)** – **Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic**, the permittee shall sample and analyze the discharge from the facility for total arsenic. The Department's most current reporting limit (RL) for total arsenic is 5 ug/L but may be subject to revision during the term of this permit. Only the detectable results greater than the total arsenic threshold of 2.4 ug/L (See page 14 of the Fact Sheet attached to this permit) or the Department's RL at the time (whichever is higher) will be considered as a possible exceedence of the water quality criteria for inorganic arsenic. If a test result is determined to be a possible exceedence, the permittee shall submit a toxicity reduction evaluation (TRE) to the Department for review and approval within 45 days of receiving the test result of concern from the laboratory.

7. **Arsenic (Inorganic)** – The limitations and monitoring requirements for inorganic arsenic are not in effect until the USEPA approves of a test method for inorganic arsenic. See Special Condition L, *Schedule of Compliance – Inorganic Arsenic*, of this permit modification.

8. **Whole Effluent Toxicity (WET) –** Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute (23%) and chronic (5.3%) water quality thresholds), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematic inverse of the applicable acute and chronic dilution factors of 4.3:1 and 19:1 respectively.

    a. **Surveillance level WET testing** - Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration, the permittee shall conduct surveillance level WET testing at a minimum frequency of twice per year (2/Year). Tests shall be conducted in different calendar quarters of each year such that tests are conducted in all four calendar quarters during the term of the permit. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulta).*

SPECIAL CONDITIONS

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

Footnotes:

b. **Screening level WET testing** - Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter, the permittee shall conduct screening level WET testing at a minimum frequency of once per quarter (1/Quarter) for four consecutive calendar quarters. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulta).*

Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following U.S.E.P.A. methods manuals:

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

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

See **Attachment B** of this permit for the Department's WET report form.

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

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

a. **Surveillance level testing –** Beginning upon issuance and lasting through 12 months prior to permit expiration, the permittee shall conduct reduced surveillance level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Year).

b. **Screening level testing –** Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter, the permittee shall conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter).

SPECIAL CONDITIONS

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

Footnotes:

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

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

    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. Priority pollutant and analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department. See **Attachment A** of this permit for a list of the Department's reporting levels (RLs) of detection.

    Priority pollutant and analytical chemistry test results must be submitted to the Department not later than the next DMR required by the permit provided, however, that the permittee may review the toxicity reports for up to 10 business days 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 AWQC as established in Department rule Chapter 584. For the purposes of Discharge Monitoring Report (DMR) reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

B. NARRATIVE EFFLUENT LIMITATIONS

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

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

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

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

C. TREATMENT PLANT OPERATOR

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

D. NOTIFICATION REQUIREMENT

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

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and
2. Any substantial change (increase or decrease) in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change shall include information on:
   (a) the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
   (b) any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

E. LIMITATIONS FOR INDUSTRIAL USERS

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

F. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on March 5, 2010; 2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

SPECIAL CONDITIONS

G. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall have a current written Wet Weather Flow Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall.

The plan shall conform to Department guidelines for such plans and shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events.

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

H. OPERATION & MAINTENANCE (O&M) PLAN

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

By December 31 of each year, **or within 90 days of any process changes or minor equipment upgrades,** the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the 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 the updated O&M Plan to their Department inspector for review and comment.

SPECIAL CONDITIONS

I. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

During the effective period of this permit, the permittee is authorized to receive and introduce into the treatment process or solids handling stream up to **a daily maximum of 2,000 gallons per day** of transported wastes, subject to the following terms and conditions.

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

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

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

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

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

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

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

SPECIAL CONDITIONS

I. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

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

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

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

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

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

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

J. MERCURY

All mercury sampling (4/Year) required by this permit or required to determine compliance with interim limitations established pursuant to Department rule Chapter 519, shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analysis shall be conducted in accordance with EPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment C,** *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

SPECIAL CONDITIONS

K. TOXICITY REDUCTION EVALUATION (TRE)

On or before June 1, 2010, ***[PCS code 02199]*** the permittee shall submit to the Department for review and approval, a TRE plan to identify, mitigate and or eliminate the toxicity associated with the sea urchin. Once approved by the Department, the permitee shall implement said TRE in accordance with the Department approval with or without conditions.

L. SCHEDULE OF COMPLIANCE – INORGANIC ARSENIC

Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic arsenic are not in effect. During this time frame, the permittee is required by Special Condition A, *Effluent Limitations and Monitoring Requirements*, of this permit to conduct 1/Quarter sampling and analysis for total arsenic.

Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.

M. MONITORING AND REPORTING

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

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

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the 15^{th} 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 (13^{th}) 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 (15^{th}) 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 15^{th} day of the month following the completed reporting period.

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

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

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

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

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

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

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

O. REOPENING OF PERMIT FOR MODIFICATIONS

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

P. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit shall remain in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

ATTACHMENT A

Printed 7/14/2009

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

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

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

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

Date Sample Collected _____ Date Sample Analyzed _____

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

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

MARINE AND ESTUARY VERSION

Please see the footnotes on the last page.

			Effluent Limits, %			Receiving Water or Ambient	**Effluent Concentration (ug/L or as noted)** WET Result, % Do not enter % sign	Reporting Limit Check	**Possible Exceedence [7]**		
	WHOLE EFFLUENT TOXICITY		Acute	Chronic					Acute	Chronic	
	Mysid Shrimp										
	Sea Urchin										
	WET CHEMISTRY										
	pH (S.U.) (9)					(8)					
	Total Organic Carbon (mg/L)					NA					
	Total Solids (mg/L)					NA					
	Total Suspended Solids (mg/L)					NA					
	Salinity (ppt.)										
	ANALYTICAL CHEMISTRY [3]										
	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L Acute[6]	Chronic[6]	Health[6]			Reporting Limit Check	**Possible Exceedence [7]** Acute	Chronic	Health
	TOTAL RESIDUAL CHLORINE (mg/L) (9)	0.05				NA					
	AMMONIA	NA				(8)					
M	ALUMINUM	NA				(8)					
M	ARSENIC	5				(8)					
M	CADMIUM	1				(8)					
M	CHROMIUM	10				(8)					
M	COPPER	3				(8)					
M	CYANIDE	5				(8)					
M	LEAD	3				(8)					
M	NICKEL	5				(8)					
M	SILVER	1				(8)					
M	ZINC	5				(8)					

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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 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

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: **March 25, 2010**

MEPDES PERMIT: **ME0101184**
WASTE DISCHARGE LICENSE: **W002626-6C-F-R**

NAME AND ADDRESS OF APPLICANT:

TOWN OF KENNEBUNKPORT
P.O. Box 1038
Kennebunkport, ME. 04046

COUNTY: **York County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

School Street
Kennebunkport, Maine

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

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Allan Moir, Superintendent**
(207) 967-2245
e-mail address: amoir@kennbunkportme.gov

1. APPLICATION SUMMARY

a. Application: The Town of Kennebunkport (permittee/Town hereinafter) has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0101184/ Maine Waste Discharge License (WDL) #W002626-5L-E-R (permit hereinafter) which was issued by the Department on June 22, 2005 and is due to expire on June 22, 2010. The permit authorized the monthly average discharge of up to 0.70 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) to the Kennebunk River, Class SB, in Kennebunkport, Maine. See **Attachment A** of this Fact Sheet for a location map of the treatment facility.

b. Source Description: The facility located on School Street in Kennebunkport treats domestic and commercial waste waters from the town. There are no industrial users contributing flow greater than 10% of the volume of waste water received by the treatment facility. The facility is also authorized to accept and treat up to 2,000 gallons of transported wastes per day into the waste treatment process.

1. APPLICATION SUMMARY (cont'd)

c. Wastewater Treatment:

The collection system is approximately 10 miles in length and has 16 pump stations. Screenings and grit are removed at the headworks by means of 3 automatic rotary screens. Biological treatment is accomplished in three – 104,000 gallon aeration basins and two – secondary clarifiers that are each 40 feet in diameter. The secondary effluent is then disinfected using sodium hypochlorite in two chlorine contact tanks and dechlorinated using sodium bisulfite. The treated effluent is conveyed to the river through a 10-inch diameter pipe that is 2,330 feet long (force main) followed by a gravity outfall pipe measuring 16 inches in diameter and 720 feet long without a diffuser. Sludge dewatering is accomplished by two 0.5 meter belt filter presses, dewatered sludge is composted on-site. There are no known combined sewer overflow points in the wastewater conveyance system associated with the existing system. See **Attachment B** of this Fact Sheet for a schematic of the waste water treatment process.

2. PERMIT SUMMARY

a. Terms and conditions - This permitting action is carrying forward all the terms and conditions of the June 22, 2005 permitting action except that this permitting action is:

1. Establishing a water quality based acute no observed effect level (A-NOEL) limit for the mysid shrimp *(Mysidopsis bahia)* and a chronic no observed effect level (C-NOEL) limit for the sea urchin *(Arbacia punctulata).*

2. Eliminating the inland silverside (*Menidia berrylina)* as a whole effluent toxicity (WET) test species.

3. Establishing monthly average and or water quality based mass and concentration limits for ammonia, arsenic and cyanide (amenable to chlorination).

b. Regulatory history: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the Town of Kennebunkport.

September 30, 1996 – The EPA issued a renewal of the Town's National Pollutant Discharge Elimination System (NPDES) permit #ME0101184 for a five-year term.

March 14, 2000 – The Department issued Maine Waste Discharge License #W002626-5L-C-R for a five-year term.

May 23, 2000 – The Department administratively modified the WDL by establishing interim mean and maximum concentration limitations of 7.5 ng/L and 11.2 ng/L, respectively, for mercury.

January 12, 2001 – The Department received authorization from the EPA to administer the NPDES program in Maine. From that point forward, the program has been referred to as the MEPDES program.

2. PERMIT SUMMARY

October 9, 2001 – The Department modified the March 14, 2000 WDL by issuing a combination MEPDES permit/WDL for the Kennebunkport facility.

December 20, 2002 – The Department provided written notification to the Town of Kennebunkport that year-round disinfection would need to be implemented in the near future to protect the health and welfare of the public utilizing the receiving waters in the non-summer months.

December 17, 2003 – The Town of Kennebunkport submitted a scope of work and schedule to implemented year-round disinfection at the waste water treatment facility.

June 22, 2005 – The Department issued MEPDES permit ME0101184/WDL #W002626-5L-E-R renewal for five-year term.

April 10, 2006 – The Department initiated a permit modification that modified the monitoring requirements for whole effluent toxicity (WET) and chemical specific test requirements to coincide with the monitoring requirements specified in Department rule 06-096 CMR, Chapter 530, *Surface Water Ambient Toxics Control Program*, promulgated on October 12, 2005.

March 3, 2010 – The Town of Kennebunkport submitted a timely and complete application to the Department to renew the MEPDES permit/WDL for the discharge from its waste water treatment facility.

3. CONDITIONS OF PERMIT

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

4. RECEIVING WATER QUALITY STANDARDS

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

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the marine waters at the Kennebunkport outfall (Waterbody #821/824) as, *"Category 2: Estuary and Marine Waters Attaining Some Designated Uses, Insufficient Information For Other Uses."* Currently, portions of the Maine Department of Marine Resources shellfish harvesting Area #7, Little River to Cape Arundel (Wells, Kennebunk and Kennebunkport) including the Kennebunk River is closed to the harvesting of shellfish due to insufficient (limited) ambient water quality data to meet the standards in the National Shellfish Sanitation Program. Compliance with the fecal coliform bacteria limits in this permitting action and year-round disinfection ensures that the discharge from the Kennebunkport waste water treatment facility will not cause or contribute to the shellfish harvesting closure. The shellfish closure area is delineated on the map included as **Attachment C** to this Fact Sheet.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Flow: The previous permitting action established a monthly average discharge flow limitation of 0.70 MGD and continuous recorder monitoring requirement, which are being carried forward in this permitting action as the numeric limit remains representative of the design capacity of the treatment works. A review of the monthly DMR data for the period January 2007 - November 2009 indicates the facility has been in compliance with the flow limit 100% of the time in said period as results have been reported as follows:

Flow (DMRs=35)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly average	0.70	0.159 – 0.683	0.372
Daily maximum	Report	0.191 – 1.907	0.668

b. Dilution Factors: Department Regulation Chapter 530 *Surface Water Toxics Control Program*, §4(a)(2) states:

(1) *For estuaries where tidal flow is dominant and marine discharges, dilution factors are calculated as follows. These methods may be supplemented with additional information such as current studies or dye studies.*

(a) For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model.

For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.

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

(b) In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor.

Based on the location and configuration of the outfall pipe, the Department has determined that the dilution factors associated with the discharge from Kennebunkport facility are as follows:

Acute = 4.3:1 Chronic = 19:1 Harmonic Mean = 57:1*

Footnote:

* 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.

c. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS): The previous permitting action established monthly average and weekly average BOD_5 & TSS concentration limits of 30 mg/L and 45 mg/L, respectively, which were based on secondary treatment requirements found in Department rule, 06-096 CMR Chapter 525(3)(III). The previous permitting action also established daily maximum BOD_5 & TSS concentration limits of 50 mg/L based on a Department best professional judgement (BPJ) of best practicable treatment (BPT), and a minimum monitoring frequency requirement of three times per week. All three technology-based concentration limits are being carried forward in this permitting action.

Department rule Chapter 523(6)(f) states that all pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass. The previous permitting action established monthly average, weekly average and daily maximum technology-based mass limits of 175 lbs./day, 263 lbs./day, and 292 lbs./day, respectively, which are being carried forward in this permitting action, as follows:

Monthly Average Mass Limit: (30 mg/L)(8.34 lbs./gallon)(0.70 MGD) = 175 lbs./day
Weekly Average Mass Limit: (45 mg/L)(8.34 lbs./day)(0.70 MGD) = 263 lbs./day
Daily Maximum Mass Limit: (50 mg/L)(8.34 lbs./day)(0.70 MGD) = 292 lbs./day

This permitting action is also carrying forward the requirement for a 30-day average minimum of 85% removal of BOD_5 & TSS pursuant to Chapter 525(3)(III)(a)(3) and (b)(3) of the Department's rules.

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

A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2007 – November 2009 indicates the following:

BOD Mass (DMRs=35)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	175	15 – 87	36
Weekly Average	263	19 – 104	51
Daily Maximum	292	20 - 121	61

BOD Concentration (DMRs=35)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	6 – 24	12
Weekly Average	45	7 – 31	14
Daily Maximum	50	7 - 33	18

TSS mass (DMRs=35)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	175	13 - 101	30
Weekly Average	263	17 – 120	48
Daily Maximum	292	21 - 161	62

TSS concentration (DMRs=35)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	5 – 27	10
Weekly Average	45	6 - 35	15
Daily Maximum	50	7 – 52	20

This permitting action is carrying forward the minimum monitoring frequency requirement of two times per week (2/Week) based on Department guidance for POTWs permitted to discharge between 0.5 and 1.5 MGD.

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

d. Settleable Solids: The previous permitting action established a daily maximum technology-based concentration limit of 0.3 ml/L and a minimum monitoring frequency requirement of once per day for settleable solids. This permitting action is carrying forward the technology-based daily maximum concentration limit of 0.3 ml/L as it is considered by the Department to be BPT for secondary treated sanitary wastewater, and the minimum monitoring frequency requirement of once per day.

A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2007 – November 2009 indicates the following:

Settleable solids (DMRs=35)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	0.01 – 0.3	0.01

e. Fecal Coliform Bacteria: The previous permitting action established year-round monthly average and daily maximum water quality-based concentration limits for fecal coliform bacteria of 15 colonies/100 ml (geometric mean) and 50 colonies/100 ml (instantaneous level), respectively, based on the National Shellfish Sanitation Program and a minimum monitoring frequency requirement of two times per week. This permitting action is carrying forward both water quality-based concentration limits and the minimum monitoring frequency requirement of two times per week (2/Week) based on Department guidance for POTWs permitted to discharge between 0.5 and 1.5 MGD. Pursuant to a request from the Maine Department of Marine Resources, disinfection is required year-round in order to ensure compliance with fecal coliform bacteria limits and thereby providing for the protection of local shellfish resources and the protection of the health and welfare of the public utilizing the receiving waters for recreation in the non-summer months.

A review of the monthly DMR data for the period January 2007 - November 2009 indicates the permittee has been in compliance with the bacteria limits 100% of the time as values have been reported as follows:

Fecal coliform bacteria (DMRs=35)

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	15	2 - 9	3
Daily Maximum	50	2 - 41	12

f. Total Residual Chlorine (TRC): The previous permitting action established a daily maximum water quality-based concentration limitation of 0.056 mg/L and a minimum monitoring frequency requirement of once per day for TRC. Department licensing/permitting actions impose the more stringent of either a water quality based or BPT based 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 Threshold	Calculated Chronic Threshold
0.013 mg/L	0.0075 mg/L	4.3:1 (A) 19:1 (C)	0.056 mg/L	0.14 mg/L

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

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that must dechlorinate the effluent in order to consistently achieve compliance with water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively unless water quality criteria require more stringent limitations for TRC. The Kennebunkport waste water treatment process does include effluent dechlorination following disinfection because of the inability to consistently achieve compliance with water quality based thresholds without dechlorination. Therefore, this permitting action is carrying forward the daily maximum water quality-based concentration limits of 0.056 mg/L, and minimum monitoring frequency of once per day (1/Day) based on Department guidance for POTWs permitted to discharge between 0.5 and 1.5 MGD.

A review of the DMR data for the period January 2007 – November 2009 indicates the permittee has been in compliance with the TRC limit every month except for February 2009 as concentration values being reported as follows:

Total residual chlorine (DMRs=35)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	0.056	0.02 – 0.06	0.04

g. pH: The previous permitting action established a pH range limit of 6.0 – 9.0 standard units (SU), which was based on a Department rule found at Chapter 525(3)(III)(c), and a minimum monitoring frequency requirement of once per day. This permitting action is carrying forward the minimum monitoring frequency requirement of once per day (1/Day) based on Department guidance for POTWs permitted to discharge between 0.5 and 1.5 MGD.

A review of the DMR data for the period January 2007 – November 2009 indicates the permittee has been in compliance with the pH range limitation 100% of the time as it has never reported values outside of the pH range limitation.

h. Whole Effluent Toxicity (WET) and Chemical-Specific Testing: Maine law, 38 M.R.S.A., Sections 414-A and 420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department Rules, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, and Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants* set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters. WET, priority pollutant and analytical chemistry testing as required by Chapter 530, is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics.

6. EFFLUENT LIMITATIONS & 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 and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health AWQC as established in Chapter 584.

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

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

Department rule Chapter 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee's facility falls into the Level I frequency category as the facility has a chronic dilution factor of <20:1. Chapter 530(1)(D)(1) specifies that default screening and surveillance level testing requirements are as follows:

Surveillance level testing – Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
I	2 per year	None required	4 per year

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

Level	WET Testing	Priority pollutant testing	Analytical chemistry
I	4 per year	1/Year	4 per year

A review of the data on file with the Department indicates that to date, the permittee has fulfilled the WET and chemical-specific testing requirements of Department rule Chapter 530. See **Attachment D** of this Fact Sheet for a summary of the WET test results and **Attachment E** of this Fact Sheet for a summary of the chemical-specific test dates.

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

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

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

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

<u>WET evaluation</u>

On 1/8/10, the Department conducted a statistical evaluation on the most recent 60 months of WET data that indicates that the discharge has;

- one test result of <5.3% on 3/4/09 for the sea urchin that exceeds the critical C-NOEL of 5.3%.
- has five additional test results of 5.3% for the sea urchin that have a reasonable potential to exceed the critical C-NOEL of 5.3%.
- has one test result of 23.2% on 3/14/06 for the mysid shrimp that has a reasonable potential to exceed the critical A-NOEL of 23.2%

Therefore, pursuant to Chapter 530 §(3)(E), this permitting action is establishing an A-NOEL limitation of 23% for the mysid shrimp and a C-NOEL limitation of 5.3% for the sea urchin.

Chapter 530 §2(3)(C) states in part "*If these data indicate that the discharge is causing an exceedence of applicable water quality criteria, then: (1) the licensee must, within 45 days of becoming aware of an exceedence, submit a TRE plan for review and approval and implement the TRE after Department approval; and (2) the Department must, within 180 days of the Department's written approval of the TRE plan, modify the waste discharge license to specify effluent limits and monitoring requirements necessary to control the level of pollutants and meet receiving water classification standards.*" Being that the 1/8/10 statistical evaluation indicates the test result of <5.3% on 3/4/09 for the sea urchin exceeds the critical C-NOEL of 5.3%, Special Condition L, *Toxicity Reduction Evaluation (TRE),* of this permit requires the permite to submit a TRE plan for Department approval on or before May 1, 2010.

Pursuant to Department rule Chapter 530 §(D)(3)(c), this permitting action is establishing the default surveillance and screening level testing for the sea urchin and the mysid shrimp as follows;

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

Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration, the permittee shall conduct surveillance level WET testing as follows:

Species	WET Testing
Mysid shrimp	2/Year
Sea urchin	2/Year

Beginning 12 months prior to the expiration date of the permit and every five years thereafter, the permittee shall conduct screening level WET testing at a frequency of 1/Quarter for four consecutive calendar quarters.

Species	WET Testing
Mysid shrimp	1/Quarter
Sea urchin	1/Quarter

Chemical Specific

Chapter 530 §4(C), states *"The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations."* The Department has no information on the background levels of metals in the water column in the Kennebunk River in the vicinity of the permittee's outfall. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

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

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

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."*

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

Chapter 530 §4(F) states in part **"***Where there is more than one discharge into the same fresh or estuarine receiving water or watershed, the Department shall consider the cumulative effects of those discharges when determining the need for and establishment of the level of effluent limits. The Department shall calculate the total allowable discharge quantity for specific pollutants, less the water quality reserve and background concentration, necessary to achieve or maintain water quality criteria at all points of discharge, and in the entire watershed. The total allowable discharge quantity for pollutants must be allocated consistent with the following principles.*

The total assimilative capacity, less the water quality reserve and background concentration, may be allocated among the discharges according to the past discharge quantities for each as a percentage of the total quantity of discharges, or another comparable method appropriate for a specific situation and pollutant. Past discharges of pollutants must be determined using the average concentration discharged during the past five years and the facility's licensed flow.

The amount of allowable discharge quantity may be no more than the past discharge quantity calculated using the statistical approach referred to in section 3(E) [Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control"] of the rule, but in no event may allocations cause the water quality reserve amount to fall below the minimum referred to in 4(E) [15% of the total assimilative capacity]. Any difference between the total allowable discharge quantity and that allocated to existing dischargers must be added to the reserve.

For the purposes of this permitting action, Kennebunkport is the only discharger to the Kennebunk River. As a result, the statistical evaluation cited above is evaluating the test results at 75% of the assimilative capacity of the receiving water and utilizing the individual allocation methodology to establish water quality based mass limits for parameters of concern.

As with WET test results, on 1/8/10 the Department conducted a statistical evaluation on the chemical specific test results submitted to the Department for the last 60 months. The evaluation indicates the discharge has;

- one test result of 8,300 ug/L on 8/15/07 that has a reasonable potential to exceed the chronic AWQC of 1.0 ug/L for ammonia.
- one test result of 15 ug/L on 3/4/09 that potentially exceeds the human health (organisms only) AWQC of 0.028 ug/L for inorganic arsenic.
- one test result of 45 ug/L on 3/14/06 that has a reasonable potential to exceed the chronic AWQC of 3.73 ug/L for copper.
- five test results greater than 13 ug/L that have a reasonable potential to exceed the acute AWQC of 5.78 ug/L for copper.
- one test result of 6.0 ug/L on 8/18/08 that potentially exceeds the acute AQWC of 1.0 ug/L for cyanide.

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

Pursuant to Chapter 530, this permitting action is establishing monthly average and daily maximum mass limitations for the chemical specific parameters with test results of concern. The limitations were derived as follows:

Ammonia

Chronic AWQC = 1.0 mg/L (based on 25ºC, salinity 20 ppt, pH 8.0 S.U.)
Chronic dilution factor = 19:1

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]

EOP = [19 x 0.75 x 1.0 mg/L] + [0.25 x 1.0 mg/L] = 14.5 mg/L

Based on a permitted flow of 0.70 MGD, an end-of-pipe (EOP) mass limit is calculated as follows:

Parameter	Calculated EOP Concentrations	Monthly Avg. Mass Limit
Ammonia	14.5 mg/L	85 lbs/day

Example calculation: Ammonia - (14.5 mg/L)(8.34)(0.70 MGD) = 85 lbs/day

Arsenic (Inorganic)

HH AWQC (organisms only) = 0.028 ug/L
Harmonic mean dilution factor = 57:1

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]

EOP = [57 x 0.75 x 0.028 ug/L] + [0.25 x 0.028 ug/L] = 1.2 ug/L

Based on a permitted flow of 0.70 MGD, EOP mass limit is calculated as follows:

Parameter	Calculated EOP Concentrations	Month Avg. Mass Limit
Inorganic Arsenic	1.2 ug/L	0.007 lbs/day

Ex. Calculation: Inorganic Arsenic - $\frac{(1.2 \text{ ug/L})(8.34)(0.70 \text{ MGD})}{1000 \text{ ug/mg}}$ = 0.007 lbs/day

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

Department rule Chapter 530 (C)(6) states:

All chemical testing must be carried out by approved methods that permit detection of a pollutant at existing levels in the discharge or that achieve detection levels as specified by the Department. When chemical testing results are reported as less then, or detected below the Department's specified detection limits, those results will be considered as not being present for the purposes of determining exceedences of water quality criteria.

The USEPA has not approved a test method for inorganic arsenic as of the date of issuance of this permit. Therefore, there is no way for the permittee to formally demonstrate compliance with the monthly average water quality based mass and concentration limits for inorganic arsenic established in this permitting action. Therefore, beginning upon issuance of this permit and lasting through the date in which the USEPA approves a test method for inorganic arsenic the permittee is being required to monitor for total arsenic. Once a test method is approved, the Department will notify the permittee in writing and the limitations and monitoring requirements for inorganic arsenic become effective thereafter.

As of the date of this permitting action, the Department has limited data on the percentage of inorganic arsenic (approximately 50%) in total arsenic test results. Based on a literature search conducted by the Department, the inorganic fraction can range from 1% - 99% depending on the source of the arsenic. Generally speaking, ground water supplies derived from bedrockwells will likely tend to have higher fractions of inorganic arsenic (As^{+3}-arsentite and/or As^{+5}- arsenate) than one may find in a food processing facility where the inorganic fraction is low and the organic fraction (arsenobetaine, arsenoribosides) is high. Until the Department and the regulated community in Maine develop a larger database to establish statistically defensible ratios of inorganic and organic fractions in total arsenic test results, the Department is making a rebuttable presumption that the effluent contains a ratio of 50% inorganic arsenic and 50% organic arsenic in total arsenic results.

Being that the only approved test methods for compliance with arsenic limits established in permits is for total arsenic, the Department converted the water quality based end-of pipe monthly average concentration value of 1.2 ug/L for inorganic arsenic calculated above into an equivalent total arsenic threshold (assuming 50% of the total arsenic is inorganic arsenic). This results in a total arsenic end-of-pipe monthly average concentration threshold of 2.4 ug/L.

The calculation is as follows:

$$\frac{\text{1.2 ug/L inorganic arsenic}}{\text{0.5 ug/L inorganic arsenic/ 1.0 ug/L total arsenic}} = \text{2.4 ug/L total arsenic}$$

Therefore, a total arsenic value greater than 2.4 ug/L is potentially exceeding the water quality based end-of pipe monthly average concentration value of 1.2 ug/L for inorganic arsenic. Only the results greater than the total arsenic threshold of 2.4 ug/L will be considered a potential exceedence of the inorganic limit of 1.2 ug/L. It is noted the Department's current RL for total arsenic is 5.0 ug/L.

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

If a test result is determined to be a potential exceedence, the permittee shall submit a toxicity reduction evaluation (TRE) to the Department for review and approval within 45 days of receiving the test result of concern from the laboratory. Contact the Department's compliance inspector for a copy of the Department's December 2007 guidance on conducting a TRE for arsenic.

Maine law, 38 M.R.S.A., §414-A(2), Schedules of Compliance states "*Within the terms and conditions of a license, the department may establish a schedule of compliance for a final effluent limitation based on a water quality standard adopted after July 1, 1977. When a final effluent limitation is based on new or more stringent technology-based treatment requirements, the department may establish a schedule of compliance consistent with the time limitations permitted for compliance under the Federal Water Pollution Control Act, Public Law 92-500, as amended. A schedule of compliance may include interim and final dates for attainment of specific standards necessary to carry out the purposes of this subchapter and must be as short as possible, based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards*." Special Condition M, *Schedule of Compliance,* of this permit establishes a schedule as follows:

> *Beginning upon issuance of this permit modification and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic are not in effect. During this time frame, the permittee is required by Special Condition A, Effluent Limitations and Monitoring Requirements, of this permit to conduct 1/Quarter sampling and analysis for total arsenic.*
>
> *Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.*

The schedule of compliance reserves the final date for compliance with the limit for inorganic arsenic. This reservation stems from the fact the EPA has no schedule for approving a test method for inorganic arsenic nor does the Department have any authority to require the EPA to do so. Therefore, the Department considers the aforementioned schedule for inorganic arsenic to be as short as possible given the technological (or lack thereof) issue of not being able to sample and analyze for inorganic arsenic with an approved method.

Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, *Schedules of Compliance* sub-§3, *Interim dates,* states in part, "*if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.*

(i) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

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

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

Special Condition A, *Effluent Limitations and Monitoring Requirements*, of this permit requires that beginning upon issuance of this permit and lasting through USEPA approval of a test method for inorganic arsenic, the permittee shall conduct 1/Quarter monitoring for total arsenic. Should the test method approval for inorganic arsenic extend more than one year from the date of the issuance of this permit the sampling and analysis for total arsenic will serve to satisfy the interim requirements specified by Department rule, Chapter 523, *Waste Discharge License Conditions*, Section 7, *Schedules of Compliance*, Sub-section 3, *Interim dates.*

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.*"

It is noted the calculations for establishing limitations for inorganic arsenic on page 14 do not explicitly increase the EOP concentration for inorganic arsenic by a factor of 2.0 due to uncertainty of the ratio between organic and inorganic fractions of total arsenic. However, the Department has given the permittee some flexibility by evaluating possible exceeedences using the rebuttable presumption that the effluent contains a ratio of 50% inorganic arsenic and 50% organic arsenic in total arsenic results. In other words, the equivalent total arsenic concentration threshold has been increased by a factor of 2.0.

Copper (Total):

The previous permitting action establish water quality based limits as follows:

Mass		Concentration	
Monthly Avg.	0.32 lbs/day	Monthly Avg.	82 ug/L
Daily Max.	0.073 lbs/day	Daily Max.	18 ug/L

The monthly average limits were based on a permitted flow of 0.70 MGD, a chronic dilution factor of 19.0:1, and a chronic AWQC of 2.9 ug/L.

The daily maximum limits were based on a permitted flow of 0.70 MGD, an acute dilution factor of 4.3:1, and a chronic AWQC of 2.9 ug/L

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

In October of 2005, the Department promulgated a new Chapter 584 rule, *Surface Water Quality Criteria For Toxic Pollutants*, in which the acute and chronic AWQC were increased for marine waters to 3.73 ug/L and 5.78 ug/L respectively. Therefore, this permitting action is recalculating monthly average and daily maximum mass and concentration limitations for copper.

Acute AWQC = 5.78 ug/L
Acute dilution factor = 4.3:1

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]

EOP = [4.3 x 0.75 x 5.78 ug/L] + [0.25 x 5.78 ug/L] = 20 ug/L

Based on a permitted flow of 0.70 MGD, an EOP mass limit is calculated as follows:

Parameter	Calculated EOP Concentrations	Daily Max. Mass Limit
Copper	20 ug/L	0.12 lbs/day

Example Calculation: Copper - $\frac{(20\ ug/L)(8.34)(0.70\ MGD)}{1{,}000\ ug/mg} = 0.12$ lbs/day

Chronic AWQC = 3.73 ug/L
Chronic dilution factor = 19:1

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]

EOP = [19 x 0.75 x 3.73 ug/L] + [0.25 x 3.73 ug/L] = 54 ug/L

Based on a permitted flow of 0.70 MGD, an EOP mass limit is calculated as follows:

Parameter	Calculated EOP Concentrations	Monthly Avg. Mass Limit
Copper	54 ug/L	0.32 lbs/day

Example Calculation: Copper - $\frac{(54\ ug/L)(8.34)(0.70\ MGD)}{1{,}000\ ug/mg} = 0.32$ lbs/day

The calculations above are correct in that the monthly average limitation is greater than the daily maximum limit. This will occur when the ratio between the acute and chronic AWQC is smaller than the ratio between the acute (1Q10) and chronic (7Q10) receiving water flows.

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

Cyanide (amenable to chlorination)

Acute and chronic AWQC = 1.0 ug/L
Acute dilution factor = 4.3:1

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]

EOP = [4.3 x 0.75 x 1.0 ug/L] + [0.25 x 1.0 ug/L] = 3.5 ug/L

Parameter	Calculated EOP Concentrations	Daily Max. Mass Limit
Cyanide	3.5 ug/L	0.020 lbs/day

Example calculation: Cyanide - $\frac{(3.5 \text{ ug/L})(8.34)(0.7 \text{ MGD})}{1{,}000 \text{ ug/mg}}$ = 0.020 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."* Based on said provisions, the Department is making a best professional judgment that the water quality-based concentration thresholds for ammonia, copper and cyanide be increased by a factor of 2.0 so as not to penalize the permittee for operating at flows less than the permitted flow. Therefore, concentration limits are being established as follows:

Parameter	Calculated EOP Concentration	Monthly Average	Daily Maximum
Ammonia	14.5 mg/L	29 mg/L	---
Arsenic (Inorg.)	1.2 ug/L	1.2 ug/L	---
Copper	20 ug/L	---	40 ug/L
Copper	54 ug/L	108 ug/L	
Cyanide	3.5 ug/L	---	7.0 ug/L

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
Ammonia	85 lbs/day	---	29 mg/L	---
Arsenic (Inorg)	0.007 lbs/day	---	1.2 ug/L	
Copper	0.32 lbs/day	0.12 lbs/day	108 ug/L	40 ug/L
Cyanide	---	0.02 lbs/day	---	7.0 ug/L

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

The Department establishes testing frequencies for chemical specific parameters that exceed or have a reasonable potential to exceed critical ambient water quality thresholds taking into consideration the frequency, timing and severity of the tests results that are at issue. Due to the number of test results that have a reasonable potential to exceed the acute AWQC, the Department has made a best professional judgment to establish a monitoring frequency of 1/Quarter (equivalent to surveillance level testing)for ammonia, arsenic copper and cyanide.

The Department is not requiring the permittee to conduct a TRE for arsenic at this time as there is only one data point in the previous 60 months that exceeds AWQC. A review of the arsenic data in Attachment E of this Fact Sheet indicates the permittee has submitted 4 test results for arsenic subsequent to the test result of concern that do not exceed AWQC. This additional testing is considered by the Department to be sufficient information to serve as a Phase I TRE. Should future test results indicate additional exceedences of AWQC, this permit will be reopened pursuant to Special Condition L and a TRE will be required to be submitted to the Department for review and approval.

For cyanide, it is noted test results submitted to the Department to date are expressed in total cyanide making it impossible to determine actual exceedences or reasonable potential to exceed AWQC adopted in Chapter 584 which is expressed as cyanide amenable to chlorination. As a result, the Department is not requiring the permittee to conduct a TRE for cyanide until at least four test results (equivalent to screening level testing) for cyanide amenable to chlorination are submitted to the Department and statistically evaluated.

As for the remaining parameters, the evaluation indicates the discharge does not have any pollutants that exceed or have a reasonable potential to exceed acute, chronic or human health AWQC. As a result, the JUD qualifies for the reduced surveillance level analytical chemistry testing frequency provision found at Chapter 530 §2(D)(3)(d). Therefore, this permitting action establishes a surveillance level monitoring frequency for the analytical chemistry of once per year for the first four years of the permit term.

i. Mercury - Pursuant to Maine law, 38 M.R.S.A. §420 and Department rule, 06-096 CMR Chapter 519, *Interim Effluent Limitations and Controls for the Discharge of Mercury*, the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL # W002626-5L-D-R by establishing interim monthly average and daily maximum effluent concentration limits of 7.5 parts per trillion (ppt) and 11.2 ppt, respectively, and a minimum monitoring frequency requirement of four tests per year for mercury. The interim mercury limits were scheduled to expire on October 1, 2001. However, effective June 15, 2001, the Maine Legislature enacted Maine law, 38 M.R.S.A. §413, sub-§11 specifying that interim mercury limits and monitoring requirements remain in effect. It is noted that the mercury effluent limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as the limits and monitoring frequencies are regulated separately through Maine law, 38 M.R.S.A. §413 and Department rule Chapter 519.

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

The interim mercury limits remain in effect and enforceable and modifications to the limits and/or monitoring frequencies will be formalized outside of this permitting document pursuant to Maine law, 38 M.R.S.A. §413 and Department rule Chapter 519. Special Condition J of this permit. The interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of the Department's database for the period March 2004 through the present indicates mercury test results reported have ranged from 2.1 ppt to 22.9 ppt with an arithmetic mean (n=24) of 7.9 ppt.

j. Septage/Transported Wastes – The previous permitting action authorized the Town to receive up to 2,000 gpd of septage. Department rule Chapter 555, *Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities*, limits the quantity of septage received at a facility to 1% of the design capacity of treatment facility if the facility utilizes a side stream or storage method of introduction into the influent flow, or 0.5% of the design capacity of the facility if the facility does not utilize the side stream or storage method of introduction into the influent flow. A facility may receive more than 1% of the design capacity on a case-by-case basis. In their application for permit renewal, the Town has requested the Department carry forward the daily quantity of transported waste it is authorized to receive and treat (up to 2,000 gpd) as it does utilize the side stream/storage method of metering wastes into the facility's influent flow. With a design capacity of 0.70 MGD, 2,000 gpd only represents 0.3% of said capacity. The permittee has submitted an up-to-date Transported Management Plan as an exhibit to their 3/3/10 application for permit renewal.

The Department has reviewed and approved said plan and determined that under normal operating conditions, the receipt and treatment of 2,000 gpd of transported waste into the facility will not cause or contribute to upset conditions of the treatment process.

7. ANTI-BACKSLIDING

Federal regulation 40 CFR, §122(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that except for provisions specified in the regulation, effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit. Applicable exceptions include; (1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation and; (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance.

This permitting action is establishing less stringent daily maximum mass and concentration limitations for total copper. The Department has made the determination that authorizing these less stringent limitations is prudent given the acute AWQC for copper was increased when Chapter 530 was promulgated on October 12, 2005, subsequent to the issuance of the previous permitting action.

8. ANTI-DEGREDATION - IMPACT ON RECEIVING WATER QUALITY

Maine's anti-degradation policy is included in 38 M.R.S.A., Section 464(4)(F) and addressed in the *Conclusions* section of this permit. Pursuant to the policy, where a new or increased discharge is proposed, the Department shall determine whether the discharge will result in a significant lowering of existing water quality. Increased discharge means a discharge that would add one or more new pollutants to an existing effluent, increase existing levels of pollutants in an effluent, or cause an effluent to exceed one or more of its current licensed discharge flow or effluent limits, after the application of applicable best practicable treatment technology.

This permitting action revises previously established effluent limitations for copper. The rationale for these actions is contained in Section 6 of this Fact Sheet. Based on the information provided in the referenced section, the Department has made the determination that the discharge approved by this permit will not result in a significant lowering of water quality. As permitted, the Department has determined the existing and designated water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the receiving water to attain water quality standards.

9. 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 Kennebunk River to meet standards for Class SB classification.

10. PUBLIC COMMENTS

Public notice of this application was made in the Biddeford Saco Journal newspaper on March 2, 2010. 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.

11. DEPARTMENT CONTACTS

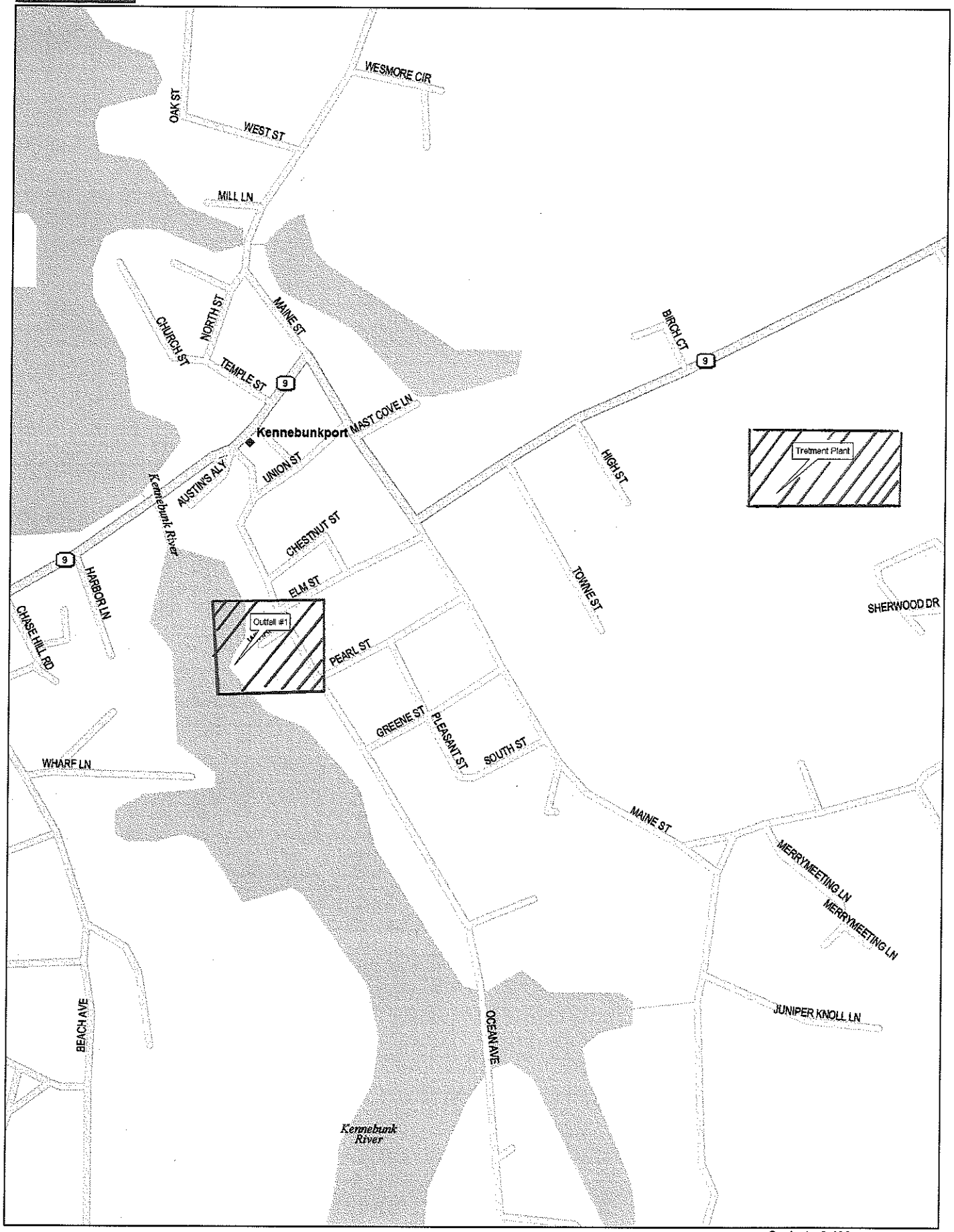
Additional information concerning this permitting action may be obtained from, and written comments sent to:

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

12. RESPONSE TO COMMENTS

During the period of March 26, 2010, 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 Kennebunkport facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

ATTACHMENT A



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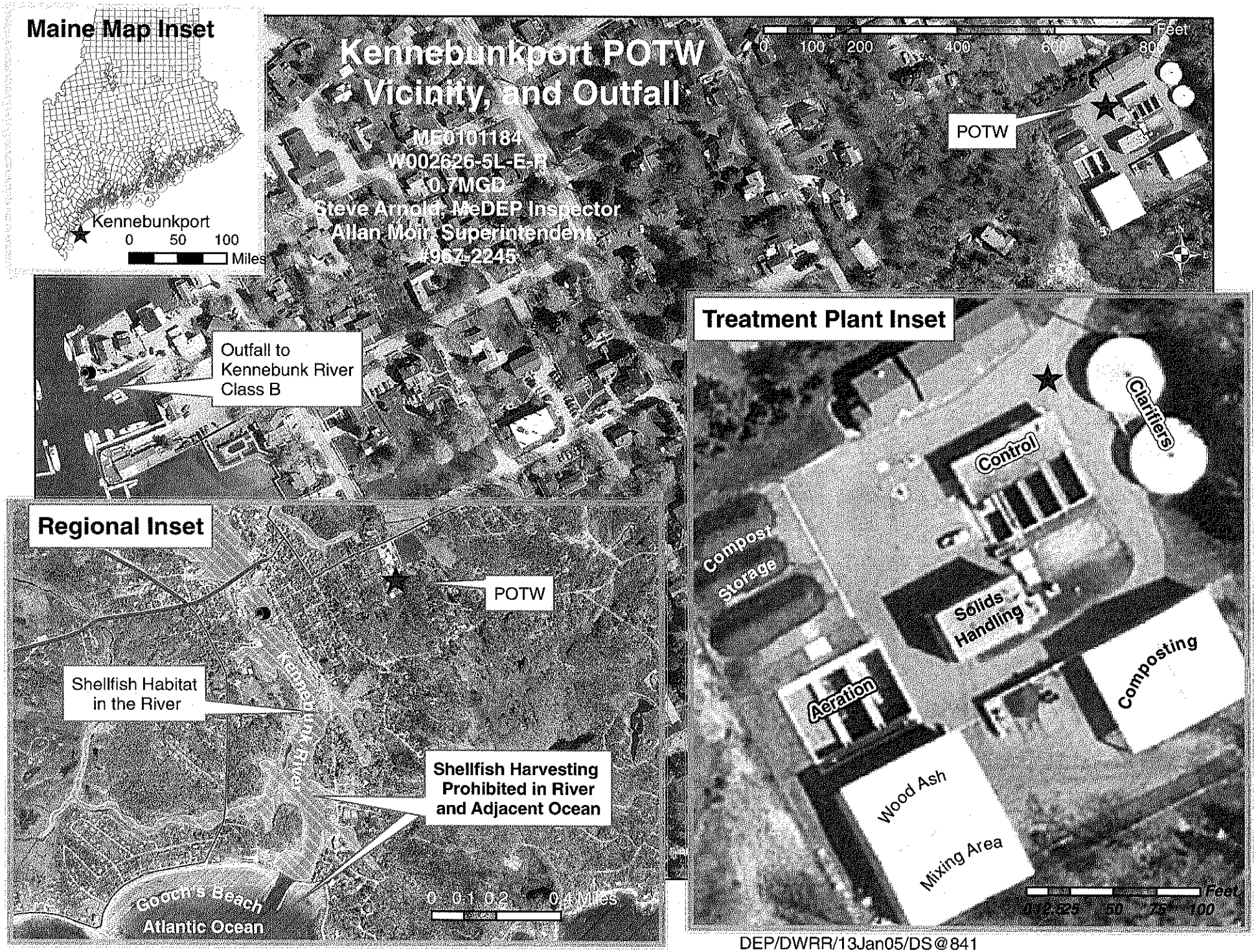
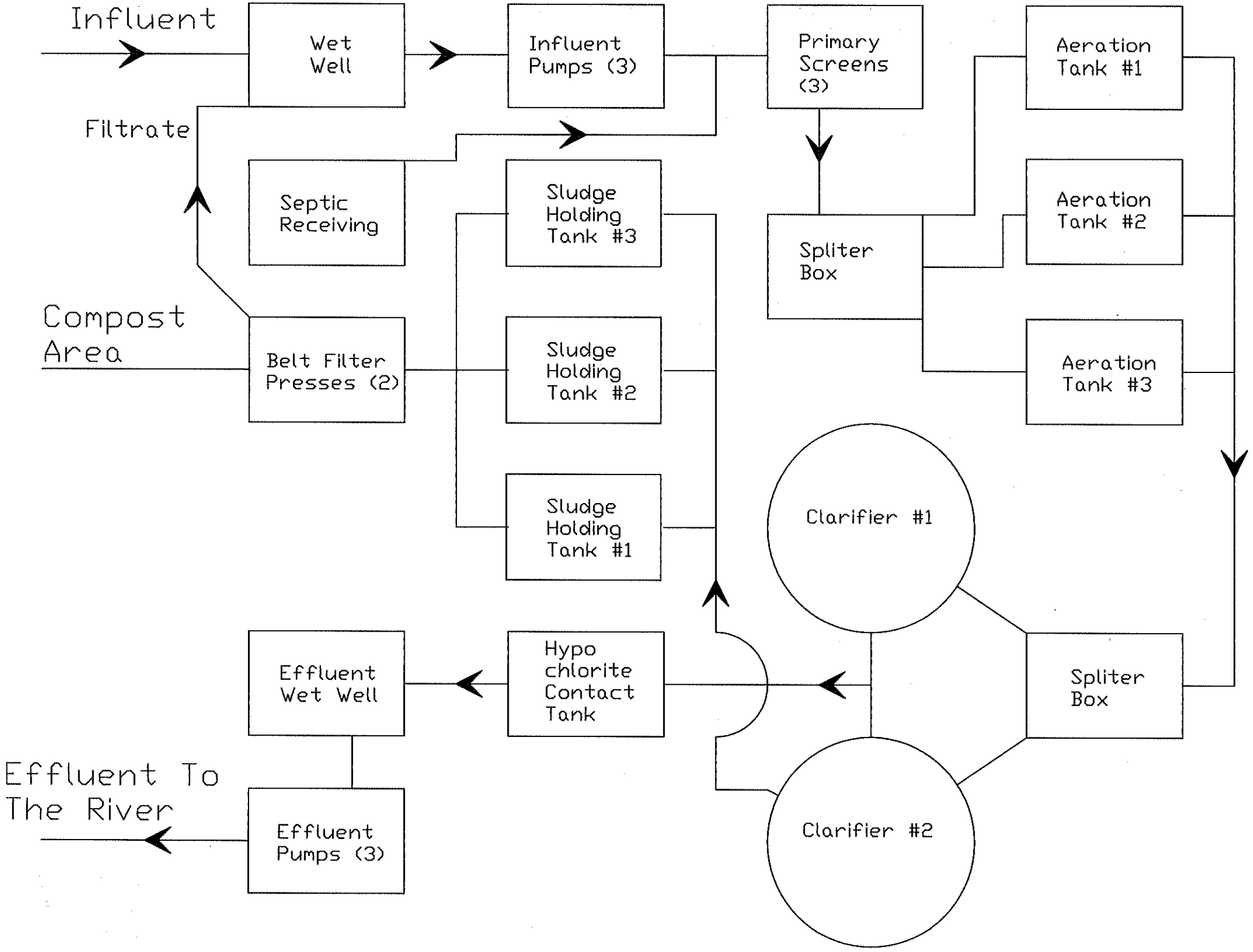

Maine Map Inset
Kennebunkport
0 50 100
Miles
Kennebunkport POTW
& Vicinity, and Outfall
ME0101184
W002626-5L-E-R
0.7MGD
Steve Arnold, MeDEP Inspector
Allan Moir, Superintendent
#967-2245
0 100 200 400 600 800 Feet
POTW
Outfall to
Kennebunk River
Class B
Treatment Plant Inset
Clarifiers
Control
Compost
Storage
Solids
Handling
Composting
Aeration
Wood Ash
Mixing Area
Feet
0 12.525 50 25 100
Regional Inset
POTW
Shellfish Habitat
in the River
Kennebunk River
Shellfish Harvesting
Prohibited in River
and Adjacent Ocean
Gooch's Beach
Atlantic Ocean
0 0.1 0.2 0.4 Miles
DEP/DWRR/13Jan05/DS@841

ATTACHMENT B


Influent
Wet Well
Influent Pumps (3)
Primary Screens (3)
Aeration Tank #1
Filtrate
Septic Receiving
Sludge Holding Tank #3
Spliter Box
Aeration Tank #2
Compost Area
Belt Filter Presses (2)
Sludge Holding Tank #2
Aeration Tank #3
Sludge Holding Tank #1
Clarifier #1
Effluent Wet Well
Hypo chlorite Contact Tank
Spliter Box
Effluent To The River
Clarifier #2
Effluent Pumps (3)

Species	Test	Test Result %	Sample Date
MYSID SHRIMP	A_NOEL	>100	11/29/2005
MYSID SHRIMP	LC50	>100	11/29/2005
MYSID SHRIMP	A_NOEL	>100	01/23/2006
SEA URCHIN	C_NOEL	100	01/23/2006
SEA URCHIN	C_NOEL	23.2	03/14/2006
MYSID SHRIMP	A_NOEL	36.1	07/17/2006
SEA URCHIN	C_NOEL	23.3	07/17/2006
MYSID SHRIMP	A_NOEL	23.26	10/24/2006
SEA URCHIN	C_NOEL	5.26	10/24/2006
MYSID SHRIMP	A_NOEL	>100	03/06/2007
SEA URCHIN	C_NOEL	5.3	03/06/2007
SEA URCHIN	C_NOEL	5.3	05/09/2007
MYSID SHRIMP	A_NOEL	>100	08/15/2007
SEA URCHIN	C_NOEL	50	08/15/2007
MYSID SHRIMP	A_NOEL	66.7	05/22/2008
SEA URCHIN	C_NOEL	5.3	05/22/2008
MYSID SHRIMP	A_NOEL	>100	10/15/2008
SEA URCHIN	C_NOEL	5.3	10/15/2008
MYSID SHRIMP	A_NOEL	>100	02/17/2009
SEA URCHIN	C_NOEL	<5.3	03/04/2009
MYSID SHRIMP	A_NOEL	>100	06/10/2009
SEA URCHIN	C_NOEL	12.5	06/10/2009

PP Data for "Hits" Only

KENNEBUNKPORT
KENNEBUNK RIVER

AMMONIA
No MDL

	Conc, ug/l	MDL	Sample Date	Date Entered
	100.000000	NS	10/24/2006	02/05/2007
	140.000000	NS	10/15/2008	02/12/2009
	300.000000	NS	01/29/2008	03/19/2008
	300.000000	NS	08/18/2008	11/19/2008
	400.000000	NS	04/25/2006	09/07/2006
	400.000000	NS	03/20/2005	05/31/2005
	480.000000	NS	06/10/2009	07/22/2009
	530.000000	NS	02/22/2005	05/02/2005
	620.000000	NS	12/05/2004	01/31/2005
	770.000000	NS	05/22/2008	07/24/2008
	1000.00000	NS	06/15/2004	08/04/2004
	1400.00000	NS	06/15/2004	07/28/2004
	2000.00000	NS	05/09/2007	09/24/2007
	2100.00000	NS	02/17/2009	05/20/2009
	2400.00000	NS	03/14/2006	06/13/2006
	2500.00000	NS	03/04/2009	05/20/2009
	4100.00000	NS	03/06/2007	07/02/2007
	4100.00000	NS	07/17/2006	10/24/2006
	4300.00000	NS	03/21/2004	06/08/2004
	8300.00000	NS	08/15/2007	10/22/2007
<	100.000000	NS	11/27/2007	02/12/2008
<	100.000000	NS	01/23/2006	03/23/2006
<	100.000000	NS	02/22/2005	05/02/2005
<	100.000000	NS	11/30/2005	04/18/2006

ARSENIC
MDL = 5 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	1.000000	OK	11/27/2007	02/12/2008
	2.000000	OK	06/10/2009	07/22/2009
	2.000000	OK	10/24/2006	02/05/2007
	3.000000	OK	04/25/2006	09/07/2006
	3.000000	OK	01/23/2006	03/23/2006
	3.000000	OK	03/20/2005	06/20/2005
	4.000000	OK	01/29/2008	03/19/2008
	4.000000	OK	07/17/2006	10/24/2006
	4.000000	OK	03/21/2004	06/14/2004
	15.000000	OK	03/04/2009	05/20/2009
<	2.000000	OK	08/18/2008	11/19/2008
<	2.000000	OK	02/17/2009	05/20/2009
<	2.000000	OK	10/15/2008	02/12/2009
<	3.000000	OK	08/15/2007	10/22/2007
<	3.000000	OK	03/06/2007	07/02/2007
<	3.000000	OK	05/09/2007	09/24/2007

PP Data for "Hits" Only

KENNEBUNKPORT
KENNEBUNK RIVER

CYANIDE
MDL = 5 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	2.000000	OK	03/20/2005	06/20/2005
	3.000000	OK	07/17/2006	10/24/2006
	3.000000	OK	10/24/2006	02/05/2007
	6.000000	OK	08/18/2008	11/19/2008
<	2.000000	OK	11/27/2007	02/12/2008
<	2.000000	OK	03/21/2004	06/14/2004
<	2.000000	OK	01/29/2008	03/19/2008
<	2.000000	OK	04/25/2006	09/07/2006
<	2.000000	OK	01/23/2006	03/23/2006
<	5.000000	OK	06/10/2009	07/22/2009
<	5.000000	OK	05/09/2007	09/24/2007
<	5.000000	OK	10/15/2008	02/12/2009
<	5.000000	OK	08/15/2007	10/22/2007
<	5.000000	OK	03/04/2009	05/20/2009
<	5.000000	OK	02/17/2009	05/20/2009
<	5.000000	OK	03/06/2007	07/02/2007

COPPER
MDL = 3 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	2.000000	OK	01/29/2008	03/19/2008
	3.000000	OK	10/24/2006	02/05/2007
	3.000000	OK	11/27/2007	02/12/2008
	3.000000	OK	03/20/2005	05/31/2005
	3.000000	OK	06/15/2004	07/28/2004
	3.000000	OK	03/06/2007	07/02/2007
	4.000000	OK	05/09/2007	09/24/2007
	6.000000	OK	02/22/2005	05/02/2005
	6.000000	OK	06/10/2009	07/22/2009
	6.000000	OK	12/05/2004	01/31/2005
	7.000000	OK	03/20/2005	06/20/2005
	7.000000	OK	03/21/2004	06/14/2004
	8.000000	OK	10/15/2008	02/12/2009
	9.000000	OK	09/26/2004	01/10/2005
	11.000000	OK	01/23/2006	03/23/2006
	11.000000	OK	02/17/2009	05/20/2009
	11.000000	OK	03/04/2009	05/20/2009
	13.000000	OK	06/15/2004	08/04/2004
	15.000000	OK	08/18/2008	11/19/2008
	16.000000	OK	07/17/2006	10/24/2006
	17.000000	OK	04/25/2006	09/07/2006
	21.000000	OK	11/30/2005	04/18/2006
	24.000000	OK	08/15/2007	10/22/2007
	45.000000	OK	03/14/2006	06/13/2006
<	2.000000	OK	05/22/2008	07/24/2008

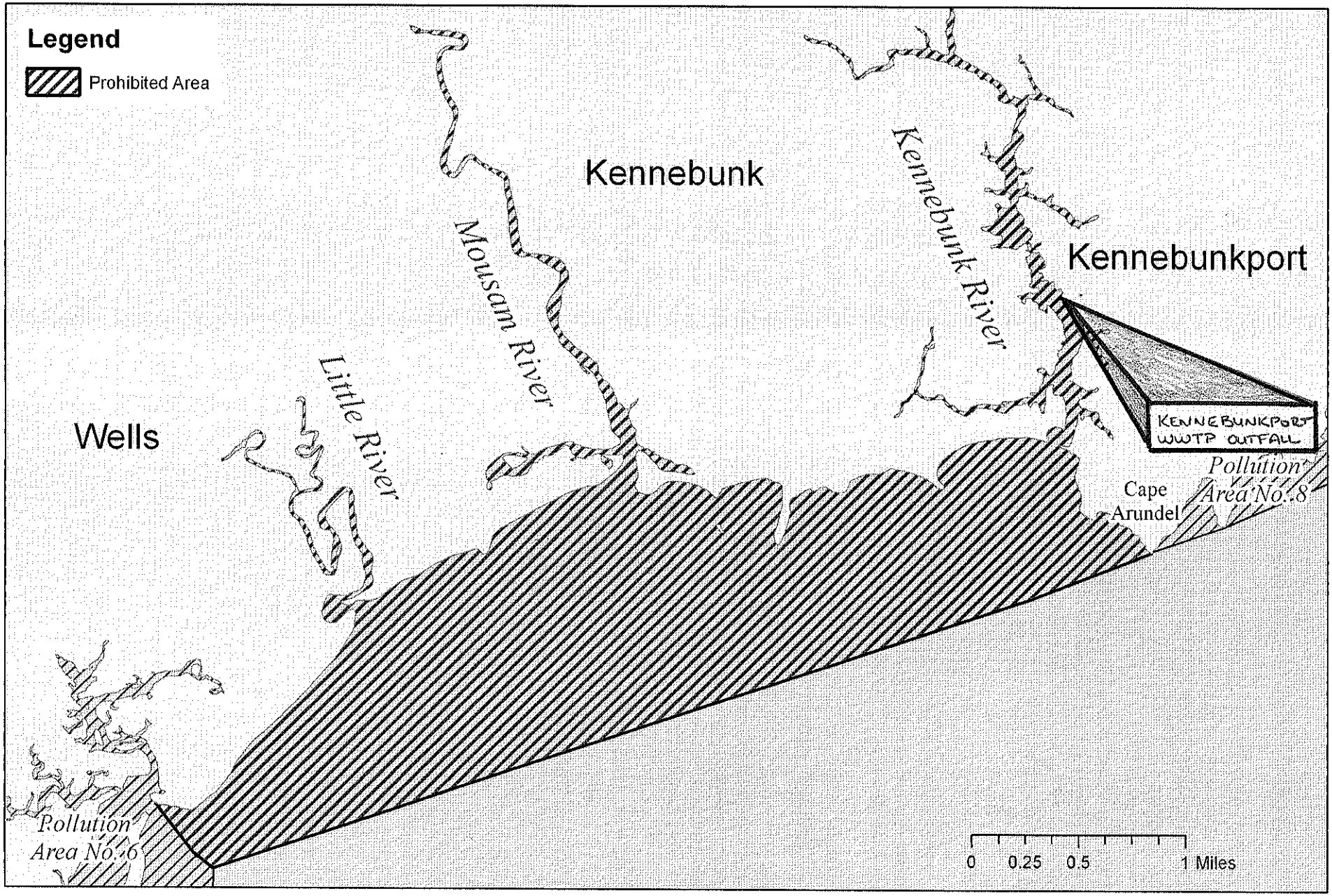
ATTACHMENT C

Maine Department of Marine Resources

Pollution Area No. 7

Little River to Cape Arundel (Wells, Kennebunk, and Kennebunkport)

05.27.09



ATTACHMENT D

Species	Test	Test Result %	Sample Date
MYSID SHRIMP	A_NOEL	>100	11/29/2005
MYSID SHRIMP	LC50	>100	11/29/2005
MYSID SHRIMP	A_NOEL	>100	01/23/2006
SEA URCHIN	C_NOEL	100	01/23/2006
SEA URCHIN	C_NOEL	23.2	03/14/2006
MYSID SHRIMP	A_NOEL	36.1	07/17/2006
SEA URCHIN	C_NOEL	23.3	07/17/2006
MYSID SHRIMP	A_NOEL	23.26	10/24/2006
SEA URCHIN	C_NOEL	5.26	10/24/2006
MYSID SHRIMP	A_NOEL	>100	03/06/2007
SEA URCHIN	C_NOEL	5.3	03/06/2007
SEA URCHIN	C_NOEL	5.3	05/09/2007
MYSID SHRIMP	A_NOEL	>100	08/15/2007
SEA URCHIN	C_NOEL	50	08/15/2007
MYSID SHRIMP	A_NOEL	66.7	05/22/2008
SEA URCHIN	C_NOEL	5.3	05/22/2008
MYSID SHRIMP	A_NOEL	>100	10/15/2008
SEA URCHIN	C_NOEL	5.3	10/15/2008
MYSID SHRIMP	A_NOEL	>100	02/17/2009
SEA URCHIN	C_NOEL	<5.3	03/04/2009
MYSID SHRIMP	A_NOEL	>100	06/10/2009
SEA URCHIN	C_NOEL	12.5	06/10/2009

ATTACHMENT E

PP Data for "Hits" Only

KENNEBUNKPORT
KENNEBUNK RIVER

AMMONIA
No MDL

	Conc, ug/l	MDL	Sample Date	Date Entered
	100.000000	NS	10/24/2006	02/05/2007
	140.000000	NS	10/15/2008	02/12/2009
	300.000000	NS	01/29/2008	03/19/2008
	300.000000	NS	08/18/2008	11/19/2008
	400.000000	NS	04/25/2006	09/07/2006
	400.000000	NS	03/20/2005	05/31/2005
	480.000000	NS	06/10/2009	07/22/2009
	530.000000	NS	02/22/2005	05/02/2005
	620.000000	NS	12/05/2004	01/31/2005
	770.000000	NS	05/22/2008	07/24/2008
	1000.00000	NS	06/15/2004	08/04/2004
	1400.00000	NS	06/15/2004	07/28/2004
	2000.00000	NS	05/09/2007	09/24/2007
	2100.00000	NS	02/17/2009	05/20/2009
	2400.00000	NS	03/14/2006	06/13/2006
	2500.00000	NS	03/04/2009	05/20/2009
	4100.00000	NS	03/06/2007	07/02/2007
	4100.00000	NS	07/17/2006	10/24/2006
	4300.00000	NS	03/21/2004	06/08/2004
	8300.00000	NS	08/15/2007	10/22/2007
<	100.000000	NS	11/27/2007	02/12/2008
<	100.000000	NS	01/23/2006	03/23/2006
<	100.000000	NS	02/22/2005	05/02/2005
<	100.000000	NS	11/30/2005	04/18/2006

ARSENIC
MDL = 5 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	1.000000	OK	11/27/2007	02/12/2008
	2.000000	OK	06/10/2009	07/22/2009
	2.000000	OK	10/24/2006	02/05/2007
	3.000000	OK	04/25/2006	09/07/2006
	3.000000	OK	01/23/2006	03/23/2006
	3.000000	OK	03/20/2005	06/20/2005
	4.000000	OK	01/29/2008	03/19/2008
	4.000000	OK	07/17/2006	10/24/2006
	4.000000	OK	03/21/2004	06/14/2004
	15.000000	OK	03/04/2009	05/20/2009
<	2.000000	OK	08/18/2008	11/19/2008
<	2.000000	OK	02/17/2009	05/20/2009
<	2.000000	OK	10/15/2008	02/12/2009
<	3.000000	OK	08/15/2007	10/22/2007
<	3.000000	OK	03/06/2007	07/02/2007
<	3.000000	OK	05/09/2007	09/24/2007

PP Data for "Hits" Only

KENNEBUNKPORT
KENNEBUNK RIVER

CYANIDE
MDL = 5 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	2.000000	OK	03/20/2005	06/20/2005
	3.000000	OK	07/17/2006	10/24/2006
	3.000000	OK	10/24/2006	02/05/2007
	6.000000	OK	08/18/2008	11/19/2008
<	2.000000	OK	11/27/2007	02/12/2008
<	2.000000	OK	03/21/2004	06/14/2004
<	2.000000	OK	01/29/2008	03/19/2008
<	2.000000	OK	04/25/2006	09/07/2006
<	2.000000	OK	01/23/2006	03/23/2006
<	5.000000	OK	06/10/2009	07/22/2009
<	5.000000	OK	05/09/2007	09/24/2007
<	5.000000	OK	10/15/2008	02/12/2009
<	5.000000	OK	08/15/2007	10/22/2007
<	5.000000	OK	03/04/2009	05/20/2009
<	5.000000	OK	02/17/2009	05/20/2009
<	5.000000	OK	03/06/2007	07/02/2007

COPPER
MDL = 3 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	2.000000	OK	01/29/2008	03/19/2008
	3.000000	OK	10/24/2006	02/05/2007
	3.000000	OK	11/27/2007	02/12/2008
	3.000000	OK	03/20/2005	05/31/2005
	3.000000	OK	06/15/2004	07/28/2004
	3.000000	OK	03/06/2007	07/02/2007
	4.000000	OK	05/09/2007	09/24/2007
	6.000000	OK	02/22/2005	05/02/2005
	6.000000	OK	06/10/2009	07/22/2009
	6.000000	OK	12/05/2004	01/31/2005
	7.000000	OK	03/20/2005	06/20/2005
	7.000000	OK	03/21/2004	06/14/2004
	8.000000	OK	10/15/2008	02/12/2009
	9.000000	OK	09/26/2004	01/10/2005
	11.000000	OK	01/23/2006	03/23/2006
	11.000000	OK	02/17/2009	05/20/2009
	11.000000	OK	03/04/2009	05/20/2009
	13.000000	OK	06/15/2004	08/04/2004
	15.000000	OK	08/18/2008	11/19/2008
	16.000000	OK	07/17/2006	10/24/2006
	17.000000	OK	04/25/2006	09/07/2006
	21.000000	OK	11/30/2005	04/18/2006
	24.000000	OK	08/15/2007	10/22/2007
	45.000000	OK	03/14/2006	06/13/2006
<	2.000000	OK	05/22/2008	07/24/2008

CONTENTS

A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

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

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

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

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

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

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

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

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

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

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

5. Bypasses.

(a) Definitions.

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

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

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

(c) Notice.

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

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

(d) Prohibition of bypass.

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

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

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

6. Upsets.

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

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

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

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

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

C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

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

(c) Records of monitoring information shall include:

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

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

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

D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

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

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

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

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

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

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

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

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

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

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

(f) Twenty-four hour reporting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Publicly owned treatment works.

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

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

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

E. OTHER REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

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

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

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

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

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

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

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

II. APPEALS TO MAINE SUPERIOR COURT

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

ADDITIONAL INFORMATION

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

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