STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

December 15, 2011

Mr. Kevin Fish
Coldbrook Energy, Inc.
809 Main Road North
Hampden, ME 04444
kevinf@coldbrookenergy.com

Sent via electronic mail
Delivery confirmation requested

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002267
Maine Waste Discharge License (WDL) #W000563-5S-E-R
Finalized MEPDES Permit Renewal

Dear Mr. Fish:

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

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

If you have any questions regarding the matter, please feel free to contact me.

Sincerely,

Bill Hinkel

Bill Hinkel
Division of Water Quality Management
Bureau of Land and Water Quality
bill.hinkel@maine.gov
ph: 207.485.2281

Enc. ec: Stacie Beyer, MeDEP Lori Mitchell, MeDEP Sandy Mojica, USEPA

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

COLDBROOK ENERGY, INC.	)	MAINE POLUTANT DISCHARGE
BULK FUEL STORAGE & TRANSFER FACILITY	)	ELIMINATION SYSTEM PERMIT
HAMPDEN, PENOBSCOT COUNTY, MAINE	)	AND
#ME0002267	)	WASTE DISCHARGE LICENSE
#W000563-5S-E-R **APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the COLDBROOK ENERGY, INC. (COLDBROOK or permittee) with its supportive data, agency review comments, and other related materials on file and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Coldbrook has applied to the Department for the renewal of combination Maine Waste Discharge License (WDL) #W000563-5S-D-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002267, which was issued by the Department on November 6, 2006, and expired on November 6, 2011. The November 6, 2006 permit authorized the discharge of treated storm water runoff from a bulk fuel storage/transfer facility to the Penobscot River, Class B, in Hampden, Maine.

PERMIT SUMMARY

This permitting action is similar to the November 6, 2006 permitting action in that it is:

For Outfall #001, carrying forward the

1. Daily maximum discharge flow limitation of 530 gallons per minute (gpm);

2. Monthly average and daily maximum concentration limitations for total suspended solids (TSS);

3. Daily maximum concentration limitation for oil and grease (O&G);

For Outfall #002, carrying forward the

4. Daily maximum discharge flow limit of 1.6 million gallons per day;

5. Daily maximum concentration limitation for TSS;

6. Daily maximum concentration limitation for O&G; and

7. Daily maximum concentration limit for total residual chlorine (TRC).

PERMIT SUMMARY (cont'd)

This permitting action is significantly different from the November 6, 2006 permitting action in that it is:

For Outfall #001

1. Eliminating the monitoring and reporting requirement for benzene;

For Outfalls #001, #003, #004 and #005 (storm water)

2. Establishing Special Condition E for compliance with the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated April 26, 2011

CONCLUSIONS

BASED on the findings summarized in the attached Fact Sheet dated December 15, 2011, 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 as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

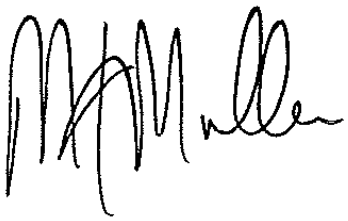
THEREFORE, the Department APPROVES the above noted application of COLDBROOK ENERGY, INC. to discharge a daily maximum flow of up to 530 gallons per minute (gpm) of treated storm water runoff via Outfall #001, an unspecified quantity of untreated storm water via Outfalls #003, #004 and #005, and up to 1.6 million gallons per day of treated hydrostatic test waters via Outfall #002 to the Penobscot River, Class B, in Hampden, 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 and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.



This permit is digitally signed by Michael Mullen on behalf of Commissioner Patricia Aho. It is digitally signed pursuant to 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date. 2011.12.20 09:28:56 -05'00'

Date of initial receipt of application: September 7, 2011
Date of application acceptance: September 9, 2011
This Order prepared by Bill Hinkel, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **treated storm water runoff** from the following outfall point to the Penobscot River in Hampden, Maine. Such discharges shall be limited and monitored by the permittee as specified below [(1)].

OUTFALL #001 - Storm water runoff

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	---	530 gpm [(2)] *[78]*	---	---	1/ Quarter *[01/90]*	Measure *[MS]*
Total Suspended Solids *[00530]*	---	---	50 mg/L [(3)] *[19]*	100 mg/L *[19]*	1/ Quarter *[01/90]*	Grab [(4)] *[GR]*
Oil & Grease *[00552]*	---	---	---	15 mg/L *[19]*	1/Quarter *[01/90]*	Grab [(4)] *[GR]*

OUTFALL #002 - Hydrostatic test waters

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow (Total Gallons) *[82220]*	---	1.6 EE6 gal *[57]*	---	---	1/Discharge *[01/DS]*	Measure *[MS]*
Total Suspended Solids *[00530]*	---	---	---	50 mg/L *[19]*	1/Discharge *[01/DS]*	Grab [(4)] *[GR]*
Oil & Grease *[00552]*	---	---	---	15 mg/L *[19]*	1/Discharge *[01/DS]*	Grab [(4)] *[GR]*
Total Residual Chlorine *[50060]*	---	---	---	Report µg/L [(5)] *[28]*	1/Discharge *[01/DS]*	Grab [(4)] *[GR]*

The italicized numeric values in brackets in the tables above and the tables that follow are not limitations but codes used by Department personnel to code monthly Discharge Monitoring Reports (DMRs).

See pages 5-6 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES:

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

   All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **Flow** – The flow through the oil/water separators shall consist of storm water runoff only. The direct or indirect discharge of liquids from petroleum product pipelines, transport tanks, vessels or storage tanks through the oil/water separators is not authorized by this permit. No chemical treatment such as dispersants, emulsifiers or surfactants may be added to the oil/water separators or any wastewater discharge stream contributing flow to the separators. There shall be no discharge of tank bottom water alone or in combination with storm water discharge or other wastewaters.

   At no time shall the flow through the oil/water separators exceed the design flow of the individual separators. Flow measurement devices or calculated flow estimates via pump curves or tank volumes or other methods must be approved by the Department. Measurement of flow may be suspended upon approval from the Department in the event the permittee limits flow to the separators by installing a permanent constriction to prevent flows from exceeding the design capacity of the separators. The installation, replacement or modification of any flow measurement or constriction device requires prior approval by the Department.

SPECIAL CONDITIONS

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

FOOTNOTES:

3. **Total Suspended Solids (TSS)** – The monthly average concentration limitation of 50 mg/L for TSS is based on an average over the previous twelve-month period. For the purposes of this permitting action, the twelve-month rolling average calculation is based on the test results for the most recent twelve-month period. Months when there is no discharge (no sampling) are not to be included in the calculations. See page 6 of the Fact Sheet of this permit for an example calculation.

4. **Sample Type** – Storm water runoff from one significant storm event per calendar quarter shall be sampled for TSS, and oil & grease. Significant storm event is defined as any event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable storm event. Suitable size and type of samples shall be collected in accordance with 40 CFR Part 136. Grab samples will be collected within the first hour (first flush) after the diked area(s) drainage area and/or pumpout has started. Separate aliquot samples shall be taken for the analysis for each parameter. Oil & Grease shall be analyzed in accordance with USEPA test method 1664.

5. **Total Residual Chlorine (TRC)** – The permittee shall utilize a USEPA-approved test method capable of bracketing the TRC limitations specified in this permitting action.

B. NARRATIVE EFFLUENT LIMITATIONS

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

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

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

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

SPECIAL CONDITIONS

C. OIL/WATER SEPARATOR MAINTENANCE

The permittee shall maintain an up-to-date operations and maintenance plan for the oil/water separators. The plan shall include, but not be limited to, measures to ensure the separators perform within the designed performance standards of the system, is maintained on a routine basis to maximize the design capacity and efficiency of the system, and that adequate staffing and training of personnel is provided to ensure compliance with discharge limitations. The operations and maintenance plan shall remain on site at all times and will be subject to periodic inspection by Department personnel.

For the purposes of minimizing suspended solids in the storm water directed to the separators, the permittee shall implement best management practices (BMPs) for erosion and sedimentation control. The permittee shall periodically inspect, maintain and repair erosion and sedimentation control structures as necessary. See Special Condition E, *Storm Water Pollution Prevention Plan* of this permit.

D. HYDROSTATIC TEST WATER

Tanks being hydrostatically tested must be clean of product, all construction debris, including sandblasting grit, prior to testing and discharge. The discharge must be dechlorinated if test results indicate that discharged waters will violate the daily maximum limits for total residual chlorine established in this permit. Hydrostatic test water from tanks that have been washed, cleaned and certified for welding need not be discharged through an oil/water separator. The permittee shall notify the Department of an intended discharge of hydrostatic test water at least three days, excluding weekends, prior to the discharge.

E. STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS

1. Storm Water Pollution Prevention Plan (SWPPP)

   a. With respect to areas of the facility contributing storm water flow subject to this permit, the permittee shall develop, implement, maintain and annually update a Storm Water Pollution Prevention Plan (SWPPP) for the facility that is consistent with the SWPPP requirements established in Part IV Sections A-O of the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated April 26, 2011. The permittee shall maintain a copy of the SWPPP on-site for Department or USEPA staff inspection.

   b. **Within 60 days of any change** in design, construction, operation, maintenance, or any chemical spill at the facility which has or may have a significant effect on the amount of pollutants present in storm water, the permittee shall amend the SWPPP and note all changes.

SPECIAL CONDITIONS

E. STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS (cont'd)

2. Monitoring Requirements

At a minimum frequency of once per calendar quarter, the permittee shall perform and document a visual examination of a storm water discharge at the end of the storm water conduit for Outfall #001 in accordance with Department guidance document #DEPLW0768, *Standard Operating Procedure Guidelines for Visual Monitoring of Stormwater Associated with Industrial Activities,* including associated Attachments A (*Instructions for Completing the Visual Monitoring Form)* and B (*Visual Monitoring Form*) (all included as **Attachment A** of this permit). The permittee shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The permittee must maintain the visual examination reports on-site with the SWPPP for a minimum of three years from the observation date.

Due to physical limitations and the comingling of storm water runoff from this site with the municipal storm water collection system, visual examination of storm water discharges via Outfalls #003, #004 and #005 are not practicable.

3. Authorized storm water discharge points.

Outfall No.	Description	Receiving Water and Location
#001	Storm water collected from drainage areas 1, 2 and 6	Penobscot River, Class B, in Hampden
#003	Untreated storm water from impervious areas used for parking and truck traffic	Penobscot River, Class B, in Hampden
#004	Untreated storm water from impervious areas used for parking and truck traffic	Penobscot River, Class B, in Hampden
#005	Untreated storm water from impervious areas used for the facility's entrance	Penobscot River, Class B, in Hampden

F. AUTHORIZED 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 September 9, 2011; 2) the terms and conditions of this permit; and 3) only from Outfalls #001, #002, #003, #004, and #005. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

SPECIAL CONDITIONS

G. MONITORING AND REPORTING

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

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

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

H. NOTIFICATION REQUIREMENT

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

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system. For the purposes of this condition, notice regarding substantial change shall include information on:

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

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

SPECIAL CONDITIONS

I. REOPENING OF PERMIT FOR MODIFICATIONS

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

J. 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

Bureau of Land and Water Quality
Division of Watershed Management
Industrial Stormwater Program

Standard Operating Procedure
Guidelines For Visual Monitoring of Stormwater Discharges Associated With Industrial Activities.

1. **APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all industrial facilities covered under the Maine Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity regardless of the facility's industrial sector code. All permitted facilities are required to perform quarterly visual monitoring of their stormwater discharges associated with industrial activity as part of their Stormwater Pollution Prevention Plans (SWPPP) in order to achieve compliance with the Multi-Sector General Permit.

2. **PURPOSE.** To provide guidelines for standardized methods for sample collection and visual examination of industrial stormwater discharges for indicators of stormwater pollution as defined in Part V of the Maine MSGP. To provide guidelines describing standardized methods of data recording and record keeping of all quarterly visual stormwater discharge monitoring data. These guidelines are described in Part 5 of the MSGP.

3. **DEFINITIONS.**

3.1. Multi-Sector General Permit (MSGP) A general permit for Stormwater Discharges Associated with Industrial Activities. Authorizes the direct discharge of stormwater associated with industrial activity to waters of the State other than groundwater, provided the discharge meets the requirements stated in this permit. This permit is effective October 11, 2005 and expires October 11, 2010. It replaces EPA's MSGP for Industrial Activities issued October 30, 2000.

3.2. SWPPP. Stormwater Pollution Prevention Plan. A plan developed and implemented by each industrial facility. It outlines sources of potential stormwater pollutants and the methods by which these pollutants will be reduced or prevented from entering waters of the State. The Plan identifies in writing a SWPPP team of facility personnel as well as a SWPPP team leader who is ultimately responsible for SWPPP implementation.

3.3. GRAB SAMPLE. Sample of stormwater discharge taken as a single uninterrupted event (i.e., grabbed at one time) from a single stormwater outfall from the industrial facility. The sample may be collected manually or with an automatic sampler.

3.4. OUTFALL. Any location such as a ditch, rill, pipe, storm drain, boat ramp, or detention pond exit where shallow concentrated flow of stormwater leaves an industrial facility.

3.5. MEASURABLE STORM EVENT. Any storm event that yields at least 0.1 inch of precipitation.

4. RESPONSIBILITIES.

4.1. MONITORING PROGRAM IMPLEMENTATION. The schedule for performing visual examinations should be clearly documented in the facility's SWPPP. The permittee must perform and document a quarterly visual examination of industrial stormwater discharges from each outfall which discharges stormwater associated with industrial activity from the facility.

4.2. OUTFALL IDENTIFICATION. The permittee must identify each industrial stormwater outfall at the facility. All outfalls shall be clearly identified on the facility site map which is part of the facility's SWPPP and also listed in the written text of the SWPPP.

4.3. EMPLOYEE TRAINING. The permittee is responsible for ensuring that all facility personnel involved in stormwater sampling are properly trained to do so. Staff involved in sampling should:

a. Be familiar with the site map and outfall locations
b. Walk the site to physically identify each sampling location
c. Become familiar with local rainfall and drainage patterns
d. Learn proper procedures for measuring rainfall
e. Become competent with proper sample collection procedures

Personnel involved in sampling should also be trained in all facility safety procedures as they apply to stormwater sampling. Where practicable the same individual should carry out the collection and examination of discharges for the entire permit term. Written documentation signed by the SWPPP team leader certifying that all personnel involved in sampling have been properly trained should be maintained onsite with the SWPPP.

4.4. SAMPLE COLLECTION FREQUENCY. Visual examinations of industrial stormwater discharges must be performed once per monitoring quarter. If no measurable storm event resulted in discharge from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided the permittee documents in the monitoring records that no runoff occurred. Schedule of monitoring quarters is listed below.

- First: October 1 to December 31
- Second: January 1 to March 31
- Third: April 1to June 30
- July 1 to September 30

All other time specific sampling requirements are to be performed in accordance with the parameters outlined in the procedures section of this document.

4.5. RECORD KEEPING AND REPORTING. The permittee must maintain reports of all visual examinations conducted onsite with the SWPPP. The permittee is not required to submit visual examination results to DEP unless specifically asked to do so. Requirements for recording visual examination data are outlined in the procedures section of this document.

5. PROCEDURES

5.1. MEASURING RAINFALL. All facilities required to perform visual monitoring of industrial stormwater discharges should have a rain gauge on site for measuring rainfall. The rain gauge may be a standard rain gauge, tipping bucket gauge, weighing type gauge, float recording gauge, or any other National Weather Service approved device for measuring rainfall to the nearest 0.1 inch. To minimize measurement errors, the gauge should be placed on a level surface that is not windswept and is away from trees or buildings that might interfere with the path of rainfall. The gauge should be regularly inspected by sampling personnel to ensure that it is in good working order and capable of accurately measuring rainfall to the nearest 0.1 inch.

5.2. SAMPLE COLLECTION TIMING. A grab sample must be collected from each facility outfall once per monitoring quarter during a measurable storm event that occurs at least 72 hours from the previously measurable storm event. The 72 hour interval is waived when the preceding measurable storm did not yield a measurable discharge. During a measurable storm event, a grab sample for visual examination should be collected during the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours of when runoff begins discharging from areas of exposed industrial activity. During monitoring quarters when snowmelt represents the only stormwater discharge, a grab sample must also be collected during periods of significant snowmelt within the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours) of when snowmelt begins discharging from areas of exposed industrial activity. Stormwater runoff from employee parking lots, administration buildings, and landscaped areas that is not mixed with stormwater associated with industrial activity, or stormwater discharges to municipal sanitary sewers does not need to be sampled.

5.3. SAMPLE CONTAINER CLEANING AND PREPARATION. The facility should have an adequate supply of containers prepared for collection of industrial stormwater samples from each outfall prior to collecting samples for visual examination. All sample containers used for sampling for visual examination should be certified as clean and free of residue by the container manufacturer, or cleaned according to the following procedure.

5.3.1. Wash containers in a non-phosphate detergent and tap water wash.

5.3.2. Thoroughly fill and rinse containers with tap water at least three (3) times.

5.3.3. Store containers closed, and in an area free of dust and other potential sample contaminants.

5.3.4. If additional containers are needed to collect samples from less accessible outfalls (i.e. buckets which are attached to poles for reaching outfalls), these containers should also be cleaned and prepared as indicated above.

5.4. SAMPLE COLLECTION. Samples should be examined in clear glass or clear plastic container prepared and cleaned as indicated above, so that all visual monitoring criteria can be observed.

5.4.1. MANUAL GRAB SAMPLE COLLECTION. Manual grab samples should be collected by inserting a container under or downstream of a discharge with the container opening facing upstream, and with the opening of the container completely immersed under water, whenever possible. Small containers (ideally 250 ml to 750 ml or approximately 8 to 24 ounces in size) are recommended in order to be able to submerse the container opening under water while still collecting an adequate sample size to make a correct visual inspection. In most cases the sample container can be held in hand while the sample is collected. Less accessible outfalls may require the use of poles and buckets to collect grab samples. Take the grab from the horizontal and vertical center of the outfall. If sampling in a channel, (i.e., ditch, trench, rill) avoid stirring up bottom sediments. Avoid touching the inside of the container to prevent contamination. Transfer sample to a clear glass or plastic container if using another container such as a bucket to collect a sample from a less accessible location. If taking samples from multiple outfalls, label containers with outfall identification prior to taking samples. Make sure samples are securely capped until examination.

5.4.2. COLLECTION OF GRAB SAMPLES BY AUTOMATIC SAMPLER. Facilities which use automatic samplers for stormwater sampling may collect grab samples for visual examination by this method. Programming for collecting grab samples is specific to the type of automatic sampler. All facility personnel who collect stormwater samples using automatic samplers should be properly trained in operation of the sampler before doing so. Several different types of automatic samplers are available for stormwater sampling. However, the following guidelines should be followed when sampling regardless of the type of sampler used. All equipment must be properly cleaned, particularly the tubing and sample containers. Deionized water should be drawn through the sampler to remove any residuals prior to taking samples. Tubing should also be periodically replaced to avoid algae or bacterial growth. Additionally, a distilled/deionized water blank sample should be taken at each outfall sampled to determine if contamination of stormwater samples by the sampling equipment has occurred. Samplers should be used in exact accordance with the manufacturers' instructions. All sampler calibration and maintenance data should be kept on site with the SWPPP.

5.5. SAMPLE EXAMINATION. Visual examination of all grab samples collected must be performed within the first sixty (60) minutes (or as soon thereafter as practicable, but not to exceed 2.25 hours) of when the runoff or snowmelt begins discharging from the facility. Collect the samples and bring them to a well lit indoor area. Pour each sample into a separate 1 L polycarbonate plastic graduated Imhoff cone. The cone should have graduations that allow volume measurement to the nearest milliliter. Record the total sample volume to the nearest milliliter on the visual monitoring form. Examine the samples for the following criteria according to the instructions provided with the visual monitoring form: Foam, odor, clarity, floating solids, suspended solids, color, oil sheen, settled solids, and any other obvious indicators of stormwater pollution. Read the settled solids 1 hour after pouring the sample into the cone, this assures all solids are settled out of the water. Settled solids in the bottom of the cone should be measured to the nearest milliliter. It is also recommended that a sample of tap water be collected in the same type of container used to collect the samples and used as a comparison to aid in evaluating the samples for the criteria stated above.

*Note: Clear polycarbonate plastic Imhoff cones are available from several scientific supply companies. See section 6 for a list of suppliers.

5.6. SAMPLE DATA RECORDING. Record all sample data on the visual monitoring form (Attachment B) after examining the sample for all of the criteria listed in the instructions (Attachment A). The form should include the examination date and time, examination personnel, the nature of the discharge (i.e., rain or snowmelt), identification of outfall sampled, quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and any other obvious indicators of stormwater pollution), and probable sources of any observed contamination. The permittee must sign and certify the documentation in accordance with Part VII (E) of the Maine MSGP. All visual examination reports must be maintained on site with the SWPPP.

5.7. RECOMMENDATIONS FOR SOLVING SAMPLE LOCATION PROBLEMS. Consult guidelines listed below when it is necessary to sample an outfall located at a less than ideal location for sampling.

- PROBLEM: Sampling where stormwater comingles with process or non process water.
  RECOMMENDATION: Attempt to sample the stormwater discharge before it mixes with the non-stormwater discharge. If this is impossible, sample the discharge both during dry and wet weather and maintain a record of the visual examination data observed under both conditions on site with the SWPPP. This will provide an indication of the contribution of any observable contamination from each source.

- PROBLEM: Numerous small point channels make up an outfall from which it is difficult to collect a sample.

RECOMMENDATION: Impound channels or join their flow together by building a weir or digging a ditch to collect discharge at a low point for sampling. This artificial collection point should be lined with plastic to prevent infiltration and/or high levels of sediment.

- PROBLEM: Inaccessible discharge point (examples include underwater discharges or unreachable discharges (e.g., out of a cliff).
  RECOMMENDATION: Go up the pipe to sample (i.e., to the nearest manhole or inspection point). If these are not available, tap into the pipe, or sample at several locations upstream of the pipe if the pipe is the only outfall for the facility.

- PROBLEM: Managing multiple sampling sites to collect grab samples during the first 60 minutes of a measurable storm event.
  RECEMMONDATION: Have a sampling crew ready for mobilization when forecasts indicate a measurable storm event is likely to occur. If this is not possible, sample missed outfall locations during other measurable storm events.

- PROBLEM: Commingling of parking lot runoff with discharge associated with industrial activity.
  RECOMMENDATION: The combined runoff must be sampled at the discharge point as near as possible to the industrial activity or at the parking lot drain inlet if there is one.

- PROBLEM: Sampling in manholes
  RECOMMENDATION: Sample with a collection device on the end of a pole to reach stormwater. Personnel sampling in manholes should have confined space safety training if manhole has to be entered.

- PROBLEM: Run-on from other property.
  RECOMMENDATION: If possible, collect and examine a sample of the stormwater at the border of the property where the run-on occurs. Then, collect and examine a sample of the stormwater at a facility outfall downstream of the run-on point. Note any observable differences between the samples and maintain the documentation with the SWPPP.

- When confronted with other difficult sampling scenarios not addressed above, the permittee should consult DEP for guidance on how to best address the situation.

6. REFERENCES

6.1. GUIDANCE MANUAL FOR THE MONITORING AND REPORTING REQUIREMENTS OF THE NPDES MULTI-SECTOR STORM WATER GENERAL PERMIT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-B-99-001(January, 1999)

6.2. NPDES STORM WATER SAMPLING GUIDANCE DOCUMENT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-8-92-001 (July, 1992)

6.3. STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION MULTI-SECTOR GENERAL PERMIT MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY
Maine Department of Environmental Protection, Bureau of Land and Water Quality, Waste Discharge License # W-008227-5Y-A-N (October 11, 2005)

***Notes: List of Vendors that Supply One Liter (1L) Clear Polycarbonate Imhoff Cones**

Forestry Suppliers Inc.
PO Box 8397
Jackson, MS 39284
(800) 752-8460
www.forestry-suppliers.com

Lab Safety Supply Inc.
PO Box 1368
Janesville, WI 53547-1368
(800) 356-0783
www.labsafety.com

Nalge Nunc International
International Dept.
75 Panorama Creek Dr.
Rochester, NY 14625
(800) 625-4327
www.nalgenelabware.com

Pollard Water
200 Atlantic Ave.
Hyde Park, NY 11040
800-437-1146
www.pollardwater.com

Instructions for Completing the Visual Monitoring Form

1. Completely fill out all required information on the top of the visual monitoring form.

2. Pour the sample into a 1 L clear polycarbonate Imhoff cone. Record the total sample volume measured in the cone to the nearest milliliter. Evaluate the sample for the following parameters according to the following instructions.

   - **Foam:** This must be done first. Examine the sample for foam immediately after pouring it into the cone. Record foam results on the visual monitoring form as they most closely match one of the descriptions listed below.

     i. **None**-Most bubbles break down within ten (10) seconds of pouring; only a few large bubbles persist longer than ten (10) seconds.

     ii. **Moderate**-Many small bubbles are present but these bubbles persist for less than two (minutes) after pouring.

     iii. **High**-Many small bubbles are present and they persist longer than two (2) minutes after pouring.

3. Examine the sample for the following criteria after it has settled for ten (10) minutes. Record the results on the visual monitoring form as they most closely match the descriptions listed below.

   - **Color:** Record the best description of the sample color in the appropriate space on the visual monitoring form.

   - **Odor:** If sample has no odor other than natural rainwater or snowmelt write “normal” on the visual monitoring form. Note the presence of any of the following odors if detected: Gasoline, diesel, oil, solvents (WD-40, other petroleum products, etc.), landfill, fishy, glycol, any other unusual odors not normally present in clean runoff from the area sampled.

   - **Clarity:** Record sample clarity results as they most closely match one of the descriptions listed below.

     i. **Clear**-Sample doesn’t filter out any light, can be seen through regardless of color.

     ii. **Cloudy-**Sample filters out some light; not clear but objects can still be identified when looking through the cone.

     iii. **Very Cloudy**-Sample filters out most light; objects are indiscernible when looking through the cone.

     iv. **Opaque**-Sample doesn’t allow any light to pass through; objects cannot be seen when looking through the cone.

- **Floating Solids:** Give a general description of the type of floating solids present (wood chips, leaf debris, algae, etc) in the general comments section for each sample. Record results for amount floating solids present as they most closely match the descriptions listed below. Record amount data in the appropriate box on page 1 of the visual monitoring form.

    i. **None**- No floating solids present on the surface of the sample.

    ii. **Slight**-Only a few floating particles observed on the surface of the sample.

    iii. **Moderate**- Less than 20% of the surface of the sample is covered with floating solids.

    iv. **High**- More than 20% of the surface of the sample is covered with floating solids.

- **Settled Solids:** Give a general description of the type of settled solids present (sand, decayed plant matter, rust particles etc) in the general comments section for each sample. Allow settle for one hour. Measure the settled solids in the bottom of the cone to the nearest milliliter and record the results in the appropriate box on page 1 of the visual monitoring form.

- **Suspended solids:** In the general comments section for each sample, give a general description of the type of solids present if any are observed suspended below the sample surface. Record whether or not settled solids were present in the appropriate box on page 1 of the visual monitoring form.

- **Oil Sheen:** Record whether or not an oil sheen is present in the sample.

- **General Comments Section on Page 2:** Make sure you have described the type of floating, settled and suspended solids observed in the samples in the general comments section provided for each outfall sample. Also note the following conditions at each outfall during the time sampled: General volume of water and flow, algae (if any is present), odor, color, and any other unusual characteristics noticed at the sampling location. Record the number of days since the last known measurable storm or runoff event.

4. Ensure that all visual monitoring forms are filed on site with the Stormwater Pollution Prevention Plan (SWPPP) each time visual monitoring is done.

Standard Operating Procedure
Bureau of Land and Water Quality
Attachment B
Date: April 20, 2006
Doc num: DEPLW0768

Visual Monitoring Form

Facility Name _____

Facility Address _____

Rainfall (est. inches) _____

Sampler's Name _____

MSGP Permit Number _____

Time Since Last Measurable Storm (Hours) _____

OUTFALL NUMBER						
OBSERVATION TIME						
EST. TIME FROM ONSET OF RUNOFF						
DISCHARGE TYPE Rain or Snowmelt						
Sample Volume (ml)						
COLOR						
ODOR						
CLARITY						
FLOATING SOLIDS*						
SETTLED SOLIDS*						
SUSPENDED SOLIDS*						
FOAM						
OIL SHEEN						
Probable source of any observed contamination						

*Enter description of these criteria in the general comments section for each outfall on the back of this page.

Under penalty of law I certify that these statements are true and correct pursuant to the terms and conditions stated in the MPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity.

Sampler's Signature _____ Date _____

General Comments

In the comments section, enter physical description of floating, settled, and suspended solids for each outfall sampled. Enter general comments on the condition and appearance of each outfall in the comments section also as indicated in the instructions.	
Outfall 1	Comments:
Outfall 2	Comments:
Outfall 3	Comments:
Outfall 4	Comments:
Outfall 5	Comments:
Outfall 6	Comments:

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **DECEMBER 15, 2011**

MEPDES PERMIT NUMBER: **#ME0002267**
WASTE DISCHARGE LICENSE NUMBER: **#W000563-5S-E-R**

NAME AND ADDRESS OF APPLICANT:

COLDBROOK ENERGY, INC.
809 MAIN ROAD NORTH
HAMPDEN, MAINE 04444

COUNTY: **PENOBSCOT**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

COLDBROOK ENERGY, INC.
809 MAIN ROAD NORTH
HAMPDEN, MAINE 04444

RECEIVING WATER / CLASSIFICATION: **PENOBSCOT RIVER/CLASS B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **MR. KEVIN FISH**
kevinf@coldbrookenergy.com
(207) 945-9465

1. APPLICATION SUMMARY

a. Application: Coldbrook Energy, Inc. (Coldbrook or permittee) has applied to the Department of Environmental Protection (Department) for the renewal of combination Maine Waste Discharge License (WDL) #W000563-5S-D-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002267, which was issued by the Department on November 6, 2006, and expired on November 6, 2011. The November 6, 2006 permit authorized the discharge of treated storm water runoff from a bulk fuel storage/transfer facility to the Penobscot River, Class B, in Hampden, Maine.

2. PERMIT SUMMARY

a. Terms and conditions: **This permitting action is similar to the November 6, 2006 permitting action in that it is:**

For Outfall #001, carrying forward the

1. Daily maximum discharge flow limitation of 530 gallons per minute (gpm);

2. Monthly average and daily maximum concentration limitations for total suspended solids (TSS);

3. Daily maximum concentration limitation for oil and grease (O&G);

For Outfall #002, carrying forward the

4. Daily maximum discharge flow limit of 1.6 million gallons per day;

5. Daily maximum concentration limitation for TSS;

6. Daily maximum concentration limitation for O&G; and

7. Daily maximum concentration limit for total residual chlorine (TRC).

This permitting action is significantly different from the November 6, 2006 permitting action in that it is:

For Outfall #001

1. Eliminating the monitoring and reporting requirement for benzene;

For Outfalls #001, #003, #004 and #005 (storm water)

2. Establishing Special Condition E for compliance with the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated April 26, 2011

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

August 7, 1999 – The Department issued WDL renewal #W002565-5S-C-R to Northeast Petroleum for a five-year term.

2. PERMIT SUMMARY (cont'd)

February 6, 1996 – The U.S. Environmental Protection Agency (USEPA) reviewed and accepted as complete for processing Coldbrook's application for a National Pollutant Discharge Elimination System (NPDES) permit. The USEPA did not take a final action on this application prior to Maine's authorization to administer the permit program (see below).

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the MEPDES program, and MEPDES permit #ME0002267 has been utilized as the primary reference number for Coldbrook's facility.

November 6, 2006 – The Department issued combination MEPDES permit #ME0002267/WDL #W000563-5S-D-R to Coldbrook Energy, Inc. for a five-year term. The November 6, 2006 superseded permit/license #W000563-5S-C-R issued on November 8, 2001, WDL #W000563-53-B-R issued on June 12, 1996 and WDL #563 issued to previous owner, Texaco, Inc., on May 27, 1981.

September 7, 2011 –Coldbrook submitted a timely and complete General Application to the Department for renewal of the November 6, 2006 MEPDES permit. The application was accepted for processing on September 9, 2011, and was assigned WDL #W000563-5S-E-R / MEPDES #ME0002267.

c. Source Description / Wastewater Treatment: The primary activities of Coldbrook Energy, Inc. are the receipt, transport, and total storage of energy fuels including #2 fuel oil, kerosene, and gasoline. Fuel is received at the storage and transfer facility by either ship or tank trucks. The facility is located along Main Street in Hampden, Maine.

Treated storm water is conveyed to the Penobscot River via Outfall #001. Untreated storm water is conveyed to the Penobscot River via Outfalls #003, #004, and #005. These outfalls are regulated by way of the Storm Water Pollution Prevention Plan required by this permit.

See Fact Sheet **Attachment A** of this fact sheet for a description of the sources of wastewater and wastewater treatment technologies employed by this facility.

3. CONDITIONS OF PERMITS

Conditions of licenses, 38 M.R.S.A. § 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, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Waters Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), 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

Classification of major river basins, 38 M.R.S.A. § 467(7)(A)(7) classifies the Penobscot River from the Maine Central Railroad bridge in Bangor to a line extended in an east-west direction from a point 1.25 miles upstream of the confluence of Reeds Brook in Hampden, as Class B waters. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(3) describes the standards for Class B waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report, (Report) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists a 10.1-mile segment (ADB Assessment Unit ID ME0102000513_234R02) of the Penobscot River between the Veazie Dam and Reed Brook as *"Category 4-B: Rivers and Streams Impaired by Pollutants - Pollution Control Requirements Reasonably Expected to Result in Attainment."* Impairment in this context refers to a fish consumption advisory due to the presence of dioxin (including 2,3,7,8-TCDD). The 2010 Report states that new dioxin sources have been removed and the river is expected to attain its ascribed standards.

All freshwaters in Maine are listed in "*Category 4-A: Rivers and Streams with Impaired Use, TMDL Completed*" for impaired Fish Consumption Use caused by mercury from sources beyond the northeast region of the United States. These waters are in Category 4A because of USEPA's approval, on December 20, 2007, of a Regional Mercury TMDL.

Many main-stem river segments, including the segment of the Penobscot River at the point of discharge, are listed in "*Category 5-D: Rivers and Streams Impaired by Legacy Pollutants*" for non-attainment of the fish consumption use due to legacy PCB contamination of fish tissue.

The Department has no information at this time that the discharges from Coldbrook, as permitted, cause or contribute to failure of the receiving water to meet the designated narrative or numeric water quality standards ascribed to Class B waters.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Effluent Limitation Basis: Discharges from activities associated with bulk petroleum stations and terminal operations must satisfy best conventional technology (BCT) and best available technology (BAT) requirements and must comply with more stringent water quality standards if BCT and BAT requirements are not adequate. On September 25, 1992, the USEPA promulgated through its General Permit for Storm Water Discharge Associated with Industrial Activity, that the minimum BAT/BCT requirement for storm water discharges associated with industrial activity is a Storm Water Pollution Prevention Plan (SWPPP) [57 FR, 44438]. In addition to a SWPPP, the Department is carrying numeric effluent limitations and or monitoring requirements forward from the previous permitting action for petroleum constituents to ensure the discharge(s) do not contribute to violations of the State's water quality standards.

Storm Water Runoff Via Outfall #001

b. Flow: Typically, the treatment technology for storm water runoff employed by bulk storage petroleum terminals is an oil/water (O/W) separator. This device uses gravity to separate the lower-density oils from water resulting in an oil phase above the oil/water interface and a heavier particulate (sludge) phase on the bottom of the O/W separator. It follows that the sizing of O/W separators is based on the following design parameters: water-flow rate, density of oil to be separated, desired percentage removal of oil, and the operating temperature range.

The previous permit established, and this permitting action is carrying forward, a daily maximum flow limit of 530 gallons per minute (gpm) for Outfall #001 that was based on information supplied by the permittee as to the design capacity of the O/W separator.

c. Total Suspended Solids (TSS): Total suspended solids have been limited in this permit to minimize the potential carryover of petroleum fractions to the receiving water(s) by adsorption to particulate matter or suspended solids. Both heavy metals and polynuclear aromatic hydrocarbons (PAHs) readily adsorb to particulate matter.

The previous permitting action established monthly average and daily maximum concentration limits of 50 mg/L and 100 mg/L, respectively, for TSS based on a Department best professional judgment (BPJ) of limits that were achievable for bulk fuel storage and transfer facilities located in the State of Maine. Individual NPDES permits issued by the USEPA to bulk fuel oil storage terminals in Maine established a daily maximum concentration limit of 100 mg/L based on a USEPA Region I BPJ determination that the technology guidelines promulgated at 40 CFR Part *423—Steam Electric Power Generating Point Source Category*, for point source discharges of low volume waste water were appropriate to control the discharge of sediment particles and oils from bulk storage petroleum terminals in the region.

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

Based on a review of quarterly effluent data for the three outfall points for the period of January 2008 – August 2011, Coldbrook has reported no exceedences of the numeric TSS limits.

The monthly average concentration limitation of 50 mg/L for TSS is based on an average over the previous twelve-month period. For the purposes of this permitting action, the twelve-month rolling average calculation is based on the test results for the most recent twelve-month period. Months when there is no discharge (no sampling) are not to be included in the calculations. An example for calculating a 12-month rolling average is as follows:

Calendar year 2011		Calendar year 2012	
Quarter #3		**Quarter #4**	
Month	Test Result	Month	Test Result
July	25 mg/L	Oct.	50 mg/L
	72 mg/L	Nov.	34 mg/L
Aug.	No Discharge		47 mg/L
Sept.	71 mg/L		59 mg/L
	22 mg/L	Dec.	89 mg/L
	26 mg/L		

Calendar year 2013		Calendar year 2013	
Quarter #1		**Quarter #2**	
Month	Test Result	Month	Test Result
Jan.	15 mg/L	Apr.	50 mg/L
	53 mg/L	May	34 mg/L
Feb.	31 mg/L		47 mg/L
Mar	71 mg/L		39 mg/L
	24 mg/L	June	No Discharge
	37 mg/L		

$$\text{12-Month rolling average} = \frac{\Sigma \text{ effluent concentrations}}{\text{n results}} = \frac{896}{20} = 45 \text{ mg/L}$$

As stated in footnote #3 of Special Condition A, *Effluent Limitations and Monitoring Requirements*, of the permit, the 12-month averaging period is based on the most recent twelve month period of time. Months where no discharge took place are excluded (i.e. do not figure in a zero) in the calculation.

d. Oil and Grease (O&G): The previous permitting action contained a daily maximum concentration limit of 15 mg/L based on Department best professional judgment of best practicable treatment for oil/water separators at bulk fuel terminals.

Based on a review of quarterly effluent data for the three outfall points for the period of January 2008 – August 2011, Coldbrook has reported no exceedences of the numeric O&G limits.

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

e. Benzene: The previous permitting action contained a daily maximum concentration reporting requirement for benzene. The basis for this monitoring and reporting requirement is explain the in the fact sheet associated with the November 6, 2006 MEPDES permit. In short, benzene was considered the most soluble of the benzene, ethylbenzene, toluene, and total xylenes (or BETXs) group of compounds associated with gasoline and related light distillate-contaminated discharges. Since issuance of the 2006 permit, the USEPA and the Department have revised the ambient water quality criteria (AWQC) by removing the aquatic life acute and chronic criteria for benzene. This pollutant is considered a long-term exposure human health risk. The discharges from the storm water collection system via Outfall #001 are short-term exposures and not considered to represent a human health risk. Moreover, the maximum effluent concentration value reported by Coldbrook for benzene at Outfall #001 during the period of January 2008 – August 2011 was 39 µg/L. The calculated end-of-pipe water quality-based concentration threshold calculated in the previous permitting action was 2,438 mg/L (2,438,000 µg/L) based on acute AWQC of 5,300µg/L. Therefore, this permitting action is eliminating the monitoring and reporting requirement for benzene for Outfall #001.

Hydrostatic Test Water (Outfall #002)

The permittee has indicated that hydrostatic testing of pipelines and tanks with water is periodically performed to confirm facility integrity. Therefore, the authorization to discharge hydrostatic test waters is being carried forward in this permitting action in accordance with the following conditions. During the period of January 2008 – August 2011, Coldbrook reported no discharges of hydrostatic test water.

f. Flow: The previous permitting action established, and this permitting action is carrying forward, a daily maximum discharge flow limitation of 1.6 million gallons (1.6 EE6) which is equal to the volume of the largest tank on site, 38,095 barrels.

g. Total Suspended Solids: The previous permitting action established, and this permitting action is carrying forward, a daily maximum limit of 50 mg/L based on a Department BPJ of limits that are achievable given the tanks that are hydrostatically tested have been washed and cleaned in preparation for repair and testing.

h. Oil & Grease: The previous permitting action established, and this permitting action is carrying forward, a daily maximum limit of 15 mg/L which is a Department BPJ of limits that are achievable given the tanks that are hydrostatically tested have been washed and cleaned in preparation for repair and testing.

i. Total residual chlorine (TRC): The previous permitting action established a daily maximum concentration monitoring and reporting requirement for total residual chlorine. At ¼ 1Q10 (¼ of the 1-day low flow that statistically occurs once every 10 years) dilution ratio, the previous permitting action calculated an allowable end-of-pipe concentration limit of 4.2 mg/L for TRC. This permitting action is carrying forward a daily maximum concentration monitoring and reporting requirement for total residual

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

chlorine in the event that a discharge of hydrostatic test water occurs during the term of the permit. At no time may the effluent concentration of TRC be greater than 4.2 mg/L.

j. Untreated storm water via Outfalls #003, #004, and #005: The previous permitting action acknowledged discharges of untreated storm water from three outfall points to the Penobscot River, but did not establish specific monitoring requirements for pollutants or flow. These discharges are subject to the best management practices established in the permittee's Storm Water Pollution Prevention Plan and Special Condition E of the permit.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the *Bangor Daily* newspaper on or about August 30, 2011. 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 *Application Processing Procedures for Waste Discharge Licenses,* 06-096 CMR 522 (effective January 12, 2001).

9. DEPARTMENT CONTACTS

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

Bill Hinkel
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
e-mail: bill.hinkel@maine.gov Telephone: (207) 485-2281

10. RESPONSE TO COMMENTS

During the period of November 8 through the issuance date of the final permit, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to Coldbrook Energy, Inc. for the proposed discharges. No comments were received from 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

Form 2F Narrative Attachments

IV-B

Outfall #001: Outfall 001 is a 10-inch pipe that discharges storm water collected within Drainage Area 1, 2, and 6 to the Penobscot River (see site plan). Drainage Area 1, 2, and 6 contain nine above ground fuel storage tanks, four above ground additive tanks, two loading rack areas, and associated transfer piping. Under normal operations, petroleum products do not come into contact with storm water. Storm water from the loading rack areas is more likely to come into contact with miscellaneous drips and leaks that occur in these areas. Four drains located in each of the two loading rack areas drain storm water through a storm drain system around tank #9. Storm water from this storm drain system collects in a 5,000 gallon collection tank before being pumped to an oil/water separator. Runoff from the bulk storage area is collected through a series of ditches and culverts and flows to the detention pond located behind fuel tank #9. Plug valves are utilized to drain storm water accumulation in the detention pond. After opening the plug valves, water is allowed to discharge to the oil/water separator. Any oil is separated and collected in the 550 gallon product recovery tank. Remaining "clean water" is collected in the 5,000 gallon underground tank. The effluent tank is controlled by a pump with a float switch which discharges through a 10 inch pipe to the Penobscot River.

The volume and type of material stored within each of the above ground storage tanks are shown in the following table.

Tank #	Contents	Tank Volume (Gal)
89	#2 Fuel Oil	240,000
90	Gasoline	250,000
91	#2 Fuel Oil	252,000
92	#2 Fuel Oil	504,000
93	#2 Fuel Oil	492,000
44	Diesel	1,325,000
66	Gasoline/ethanol	756,000
35	Kerosene	420,000
9	Gasoline	1,600,000
-	Gasoline Additive	8,000
-	Gasoline Additive	10,000
-	Gasoline Additive	3,000
-	Fuel Additive	3,000

During normal maintenance, repairs, and upgrades of tanks and pipelines the potential for miscellaneous drips and spills may occur. The facility currently maintains an EPA Spill Prevention Control and Countermeasure (SPCC) Plan which includes provisions to minimize the potential for oil to be discharged into navigable waters of the United States from the site.

Outfall #003: This outfall discharges storm water runoff collected on the paved area for parking and truck traffic into and out of truck loading racks and is identified on the site plan. Drainage from several municipally operated storm drains located off of the Coldbrook property also discharge through Outfall #003.

All trucks meet MDOT spill prevention requirements. Trucks are loaded at the loading racks, which have containment berms and drains to provide secondary containment for potential spills.

All fuel spills within the loading racks are treated by the oil/water separator system. Should spills on trucks occur within the loading racks, trucks are cleaned at the racks before traveling to pavement serviced by Outfall #003.

Outfall #004: This outfall discharges storm water runoff collected on the paved area for parking and truck traffic into and out of truck loading racks and is identified on the site plan.

All trucks meet MDOT spill prevention requirements. Trucks are loaded at the loading racks, which have containment berms and drains to provide secondary containment for potential spills. All fuel spills within the loading racks are treated by the oil/water separator system. Should spills on trucks occur within loading racks, the trucks are cleaned at the racks before traveling to pavement serviced by Outfall #004.

Outfalls #003 and #004 discharge to a 24" storm drain line that ultimately discharges to the Penobscot river. This storm drain line collects drainage from 6 additional storm drains along Route 1A and the Old County Road.

Outfall #005: This outfall discharges stormwater from the facility's paved entrance area. In the event of a spill all trucks involved are cleaned prior to exiting the facility.

IV-C

Outfall #001: Fuel spill and storm water runoff collection from the truck loading rack is performed by a lipped slab flowing to trench drains along the perimeter of truck loading rack slab. Trench drains are plumbed to provide partial sediment retention and fuel/water separation within the trench drain structure. Should spills occur while loading trucks, absorbent pads are used to contain fuel oil, and trucks are cleaned prior to leaving the rack. A roof over the truck loading rack sheds most rain water off the loading rack slab. A 6-inch diameter pipe transfers flows from the slab trench drains to two in series sand trap manholes connected to a 5,000 gallon collection tank. The sand trap manholes provide low flow fuel/water settling. The 5,000 gallon collection tank contains a float operated 50 GPM sump pump which transfers flows to a Heil Model #602-RPOV 530 GPM oil/water separator. Separated fuel/oil flows to a 550 gallon underground holding tank. Effluent flows to a 5,000 gallon underground effluent tank with a float activated 300 GPM sump pump discharging storm water effluent to the 10-inch Outfall #001 at elevation 9.90 in the Penobscot River.

Storm water within the tank farm and tank bottom water are collected on a lined secondary containment system comprised partially of a 40 mil Morton Thiokol synthetic liner (installed in 1993) and partially of a geosynthetic clay liner (installed in 1995 in the expanded portion of the bulk storage area), and flows overland to a 41,125 gallon capacity detention pond. The detention pond is connected in series to the Heil Model #602 - RPOV oil/water separator by a single 6-inch gravity line controlled by two manually operated plug valves flowing to two 4-foot by 4-foot sand trap sumps with orifices inboard and outboard to control flows below the Heil oil/water separator capacity. The plug valves are normally closed and are opened only under the direct supervision of Coldbrook Energy personnel. Effluent from the Heil water separator, as discussed previously, flows to a 550 gallon oil holding tank and a 5,000 gallon collection tank to discharge to Outfall #001 in the Penobscot River.

Fuel oil held within the 550 gallon holding tank is manually pumped to an above ground 4,000 gallon holding tank for storage and is eventually recycled back into the tank farm storage tanks. Sludge and waste from the holding tank which is non-recycled is removed by Clean Harbors, Inc., a licensed waste removal company.

Major fuel spill containment is provided by a bermed basin of 1,900,000 gallons and licensed clean-up crews. Spill Prevention Control and Countermeasure Plans are followed for control measures.

Outfall #003: Any fuel oil spilled on paved way into and out of the loading rack will be contained with absorbent pads before entry into Town of Hampden 24" storm drain that flows to Penobscot River.

Outfall #004: Any fuel oil spilled on paved way into and out of loading rack will be contained by absorbent pads before entry into catch basins that drain to Town of Hampden 24" storm drain that flows to Penobscot River.

Outfall #005: Any fuel oil spilled on the paved entrance area will be contained by absorbent pads before being discharged off site and entering into catch basins that drain to the Town of Hampden stormdrains that flow to the Penobscot River.

VII

PART A: Analysis of samples collected at the site for the parameters specified in this Section have been submitted to the Department in previous WDL/MEPDES applications. There is no reason to believe retesting would reproduce significantly different concentrations. Facility operations have not changed since their last application was submitted and there have been no reported spills, leaks, or discharges involving the products stored at this facility.

Oil & grease, total suspended solids (TSS), and flow are tested monthly as part of their current license and are reported on the Discharge Monitoring Reports (DMR) submitted to the Department.

ATTACHMENT C

INTERMITTENT DISCHARGES

The majority of water discharged via Outfall # 1 is a result of storm water collected from Drainage Areas #001, #002, and #006. Water from washing down the truck rack area is also discharged through Outfall #1. As discussed in Attachment B, hydrostatic test water may also be discharge via Outfall #001. The oil/water separator located in Containment Area A treating discharge from Outfall #001 is limited to 115 gpm by the oil/water separator sump pump. The frequency of discharges varies due to the frequency of storm events, and discharges of hydrostatic test water; however, as noted, the discharge amount will not exceed 115 gpm.

Discharges via Outfall #003, #004, and #005 occur only during storm events when water is collected from the paved parking areas. The amount of discharge varies due to the frequency of storm events and how often personnel wash down the truck rack area. The Site Plan in Attachment #A delineates the drainage areas associated with each of the outfalls. As noted in Attachment #B the average discharge volume has been calculated.

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.