STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LePAGE
GOVERNOR

James P. Brooks
ACTING COMMISSIONER

January 21, 2011

VIA ELECTRONIC MAIL

Mr. Chris Loughlin, Town Manager
Town of Machias
Water Pollution Control Facility
P.O. Box 418
Machias, ME 04654

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100323
Maine Waste Discharge License (WDL) Application #W002674-6C-F-R
Final Permit/License – Town of Machias Water Pollution Control Facility

Dear Mr. Loughlin:

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

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

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

Sincerely,

Phyllis Arnold Rand

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

Enclosure

cc: Clarissa Trasko, DEP/EMRO Brian Pitt, USEPA Sandy Mojica, USEPA Lori Mitchell, DMU
Annaleis Hafford, Olver Associates Bob Bialota, Machias WPCF

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF MACHIAS	) MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS	) ELIMINATION SYSTEM PERMIT
MACHIAS, WASHINGTON COUNTY	) AND
ME0100323	) WASTE DISCHARGE LICENSE
W002674-6C-F-R **APPROVAL**	) **RENEWAL**

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

APPLICATION SUMMARY

The permittee has applied to the Department for renewal of Maine Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System (MEPDES) permit # W002674-5L-D-R / ME0100323, which was issued on September 6, 2005 and expired on September 6, 2010. The permit authorized the monthly average discharge of up to 0.37 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) as well as the discharge of an unspecified quantity of excess combined sanitary and storm water during wet weather events from two (2) combined sewer overflow (CSO) outfalls to the Machias River, Class SB, in Machias, Maine. The permittee is undertaking a Peak Flow Upgrade that will increase the average daily flow design from 0.37 MGD to 0.90 MGD. This permitting action reflects the permittee's present ***(Tier I)*** and after-upgrade ***(Tier II)*** operating conditions.

PERMIT MODIFICATIONS REQUESTED

1. The permittee requests that the Department replace the EPA's 1996 National Ambient Water Quality Criteria for total copper [2.9 parts per billion (ppb)] with the EPA's 2002 National Ambient Water Quality Criteria for total copper [5.78 ppb].

2. The permittee requests that the Department adjust the total copper mass limitation upon completion of the Peak Flow Upgrade Project in order to reflect the monthly average design flow of 0.90 MGD.

3. The permittee requests the Department provide "Report Only" requirements for the BOD5 and TSS daily maximum mass standards or provide a higher mass loading limits for peak flow days.

4. The permittee requests that the Department increase the permitted amount of transported wastes received from 2,000 gpd to 3,500 gpd.

PERMIT MODIFICATIONS REQUESTED (cont'd)

5. The permittee requests the Department establish "Report Only" requirements for the BOD5 and TSS weekly average mass limits when the total daily influent flow exceeds 1.25 MGD.

PERMIT MODIFICATION REQUESTS GRANTED

1. The Department is applying the EPA's 2002 National Ambient Water Quality Criteria for total copper as adopted in 06-096 CMR 584, *Surface Water Quality Criteria for Toxic Pollutants*, (effective October 9, 2005).

2. The Department is eliminating the permittee's effluent limitations for total copper based on a recent 60-month evaluation of the permittee's data per 06-096 CMR 530, *Surface Water Toxics Control Program* (effective October 9, 2005).

3. The Department is approving an increase in the volume of transported wastes received from 2,000 gpd to 3,500 gpd for ***Tier I*** (present operating conditions) and from 3,500 gpd to 4,500 gpd for ***Tier II*** (post-upgrade conditions) based on 06-096 CMR 555, *Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities* (effective March 9, 2009).

4. The Department is approving the permittee's request to provide "Report Only" requirements for the BOD5 and TSS daily maximum mass limitations based on Department Best Professional Judgment (BPJ).

5. The Department is approving the permittee's request to require "Report Only" BOD5 and TSS weekly average mass limitations based on Department BPJ. The Department is establishing a requirement that the "Report Only" limitations are in effect when the total daily influent flow exceeds 1.25 MGD.

PERMIT SUMMARY

This permitting action (*TIER I and TIER II* unless otherwise noted) is similar to the September 6, 2005 permitting action in that it is:

1. Carrying forward the monthly average discharge flow limitation of 0.37 MGD (***TIER I***);

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

3. Carrying forward the daily maximum technology-based concentration limitation for settleable solids;

PERMIT SUMMARY (cont'd)

4. Carrying forward the monthly average and daily maximum water quality-based concentration limitations for fecal coliform bacteria;

5. Carrying forward the technology based monthly average and water quality based daily maximum concentration limitations for total residual chlorine (TRC) (***TIER I***);

6. Carrying forward the technology based monthly average TRC concentration limitation (***TIER I***);

7. Carrying forward the reduced surveillance level whole effluent toxicity (WET) testing frequency for the sea urchin (*Arbacia punctulata*), priority pollutant and chemical-specific testing requirements;

8. Carrying forward screening-level WET, priority pollutant and analytical chemistry testing requirements (***TIER I***);

9. Carrying forward a requirement for a 30-day average minimum of 85% removal of BOD_5 and TSS;

10. Carrying forward the pH range limitation of 6.0 to 9.0 SU;

11. Carrying forward the requirement to maintain a current Wet Weather Management Plan and Operation and Maintenance Plan.

This permitting action (*TIER I* ***and* *TIER II* unless otherwise noted) is <u>different from</u> the September 6, 2005 permitting action in that it is:**

12. Eliminating the WET testing requirements for the inland silverside (*Menidia beryllina*);

13. Establishing numerical limitations and full surveillance level monitoring requirement for the mysid shrimp (*Mysidopsis bahia*);

14. Establishing screening level WET testing requirements (***TIER II***);

15. Revising the monthly average design flow from 0.37 MGD to 0.90 MGD (***TIER II***);

16. Revising the water quality based daily maximum TRC concentration limitation (***TIER II***);

17. Establishing an annual certification statement requirement as Special Condition L, "Statement for Reduced/Waived Toxics Testing;"

18. Revising BOD5 and TSS mass limits (***TIER II***) based on an increase in monthly average design flow;

19. Revising the limits for receipt of transported wastes from 2,000 gallons per day to 3,500 gallons per day (***TIER I***); and from 3,500 gallons per day to 4,500 gallons per day (***TIER II***);

PERMIT SUMMARY (cont'd)

20. Reducing the settleable solids minimum monitoring frequency from 1/Day to three times per week (3/Week) based upon Department BPJ;

21. Eliminating the requirement for the submission of annual reports to address copper toxicity reduction efforts;

22. Eliminating numerical limitations and quarterly monitoring requirements for total copper;

23. Revising the fecal coliform testing frequency from 3/Week to 1/Week based on compliance history and Department guidance (***TIER I***);

24. Revising the fecal coliform testing frequency from 1/Week to 2/Week based on Department guidance (***TIER II***);

25. Revising the BOD5 and TSS daily maximum mass limits from numerical to "Report Only" limits;

26. Revising the BOD5 and TSS weekly average mass limits from numerical to "Report Only" limits when the total daily influent flow exceeds 1.25 MGD;

27. Reclassifying the permittee from a Maine Grade II biological secondary wastewater treatment facility to a Maine Grade III biological secondary wastewater treatment facility (***TIER II***) per *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006);

28. Requiring a Maine Grade III wastewater operator certification (or higher) (***TIER II***) of the person who has management responsibility over the treatment facility per *Sewerage Treatment Plant Operators*, Title 32 MRSA, Sections 4171-4182 and 06-096 CMR 531;

29. Revising the BOD5 and TSS monitoring frequencies from once per week to twice per week based on Department guidance (***TIER II***).

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 10, 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 MRSA Section 464(4)(F), will be met, in that:

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

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

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

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

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

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

ACTION

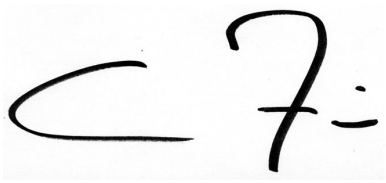
THEREFORE, the Department APPROVES the application of the TOWN OF MACHIAS to discharge up to a monthly average flow of 0.90 MILLION GALLONS PER DAY of secondary treated sanitary wastewater and an unspecified quantity of untreated excess combined sanitary and storm water from two (2) combined sewer overflow (CSO) points during wet weather events to the Machias River, Class SB, in Machias, Maine. The discharges shall be 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 becomes effective upon the date of signature below and expires at midnight five (5) years thereafter.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES



This permit has been digitally signed by Andrew C. Fisk on behalf of Acting Commissioner James Brooks. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature da
2011.01.25 10:43:56 -05'00'

Date of initial receipt of application: June 9, 2010
Date of application acceptance: June 9, 2010

This Order prepared by PHYLLIS ARNOLD RAND, BUREAU OF LAND & WATER QUALITY
ME0100323 2011

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of this permit, the permittee is authorized to discharge **secondary treated sanitary wastewater from Outfall #001A** to the Machias River. Such discharges shall be limited and monitored by the permittee as specified below:

TIER I[1]

Effluent Characteristic	Discharge Limitations			Minimum Monitoring Requirements				
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow ***[50050]***	0.37 MGD *[03]*	--	Report MGD *[03]*	--	--	--	Continuous *[99/99]*	Recorder *[RC]*
BOD_5 ***[00310]***	93 lbs/day *[26]*	139 lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24-Hour Composite *[24]*
BOD_5 (At flows above 1.25 MGD)[9] ***[00310]***	93 lbs/day *[26]*	Report lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24-Hour Composite *[24]*
BOD_5 Percent Removal[2] ***[81010]***	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
TSS ***[00530]***	93 lbs/day *[26]*	139 lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24-Hour Composite *[24]*
TSS (At flows above 1.25 MGD)[9] ***[00530]***	93 lbs/day *[26]*	Report lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24-Hour Composite *[24]*
TSS Percent Removal[2] ***[81011]***	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids ***[00545]***	--	--	--	--	--	0.3 mL/L *[25]*	3/Week *[03/07]*	Grab *[GR]*
Fecal Coliform Bacteria[3] ***[31616]***	--	--	--	15/100 ml[4] *[13]*	--	50/100 ml *[13]*	1/Week *[01/07]*	Grab *[GR]*
Total Residual Chlorine[5] ***[50060]***	--	--	--	0.1 mg/L *[19]*	--	0.17 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
pH ***[00400]***	--	--	--	--	--	6.0 – 9.0 SU *[12]*	1/Day *[01/01]*	Grab *[GR]*

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

FOOTNOTES: See Pages 12 through 15 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

2. Whole effluent toxicity, analytical chemistry and priority pollutant testing requirements for **Outfall #001A**:

SURVEILLANCE LEVEL – Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration.

TIER I[(1)]

Whole Effluent Toxicity (WET) [(6)]	**Daily Maximum**	**Minimum Monitoring Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)** Invertebrate-**Mysid Shrimp** (*Mysidopsis bahia*) *[TDA3E]*	7.8 % *[23]*	1/Year *[01/YR]*	Composite *[24]*

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

FOOTNOTES: See Pages 12 through 15 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

3. Whole effluent toxicity, analytical chemistry and priority pollutant testing requirements for **Outfall #001A**:

SCREENING LEVEL - Beginning 12 months prior to expiration of this permit or in the fifth year since the last screening test, whichever is sooner.

TIER I[1]

Whole Effluent Toxicity (WET) [6]	**Daily Maximum**	**Minimum Monitoring Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)** Invertebrate-**Mysid Shrimp** (*Mysidopsis bahia*) *[TDA3E]*	7.8 % *[23]*	1/Year *[01/YR]*	Composite *[24]*
Chronic No Observed Effect Level **(C-NOEL)** Invertebrate-**Sea Urchin** (*Arbacia punctulata*) *[TBH3A]*	Report % *[23]*	1/Year *[01/YR]*	Composite *[24]*
Analytical Chemistry [7] *[51477]*	Report ug/L *[28]*	Quarterly *[01/90]*	Composite/Grab *[24/GR]*
Priority Pollutants[8] *[50008]*	Report ug/L *[28]*	1/Year *[01/YR]*	Composite/Grab *[24/GR]*

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

FOOTNOTES: See Pages 12 through 15 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

4. Beginning upon written approval by the Department, the permittee is authorized to discharge **secondary treated sanitary wastewater from Outfall #001A** to the Machias River. Such discharges shall be limited and monitored by the permittee as specified below:

TIER II[(1)]

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow ***[50050]***	0.90MGD *[03]*	--	Report MGD *[03]*	--	--	--	Continuous *[99/99]*	Recorder *[RC]*
BOD_5 ***[00310]***	225 lbs/day *[26]*	338 lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	2/Week *[02/07]*	24-Hour Composite *[24]*
BOD_5 **(At flows above 1.25 MGD)[(9)]** ***[00310]***	225 lbs/day *[26]*	Report lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	2/Week *[02/07]*	24-Hour Composite *[24]*
BOD_5 Percent Removal[(2)] ***[81010]***	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
TSS ***[00530]***	225 lbs/day *[26]*	338 lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	2/Week *[02/07]*	24-Hour Composite *[24]*
TSS **(At flows above 1.25 MGD)[(9)]** ***[00530]***	225 lbs/day *[26]*	Report lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	2/Week *[02/07]*	24-Hour Composite *[24]*
TSS Percent Removal[(2)] ***[81011]***	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids ***[00545]***	--	--	--	--	--	0.3 mL/L *[25]*	3/Week *[03/07]*	Grab *[GR]*
Fecal Coliform Bacteria[(3)] ***[31616]***	--	--	--	15/100 ml[(4)] *[13]*	--	50/100 ml *[13]*	2/Week *[02/07]*	Grab *[GR]*
Total Residual Chlorine[(5)] ***[50060]***	--	--	--	0.1 mg/L *[19]*	--	0.08 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
pH ***[00400]***	--	--	--	--	--	6.0 – 9.0 SU *[12]*	1/Day *[01/01]*	Grab *[GR]*

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

FOOTNOTES: See Pages 12 through 15 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

5. Whole effluent toxicity, analytical chemistry and priority pollutant testing requirements for **Outfall #001A**:

SURVEILLANCE LEVEL – Beginning upon written approval by the Department and lasting through 12 months prior to permit expiration.

TIER II[1]

Whole Effluent Toxicity (WET) [6]	**Daily Maximum**	**Minimum Monitoring Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)** Invertebrate-**Mysid Shrimp** (*Mysidopsis bahia*) *[TDA3E]*	17.0 % *[23]*	1/Year *[01/YR]*	Composite *[24]*
Chronic No Observed Effect Level **(C-NOEL)** Invertebrate-**Sea Urchin** (*Arbacia punctulata*) *[TBH3A]*	Report % *[23]*	1/2Year *[01/2Y]*	Composite *[24]*
Analytical Chemistry [7] *[51477]*	Report ug/L *[28]*	1/2Year *[01/2Y]*	Composite/Grab *[24/GR]*

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

FOOTNOTES: See Pages 12 through 15 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

6. Whole effluent toxicity, analytical chemistry and priority pollutant testing requirements for **Outfall #001A**:

SCREENING LEVEL - Beginning 12 months prior to expiration of this permit or in the fifth year since the last screening test, whichever is sooner.

TIER II[1]

Whole Effluent Toxicity (WET) [6]	**Daily Maximum**	**Minimum Monitoring Frequency**	**Sample Type**
Acute No Observed Effect Level **(A-NOEL)** Invertebrate-**Mysid Shrimp** (*Mysidopsis bahia*) *[TDA3E]*	17.0 % *[23]*	2/Year *[02/YR]*	Composite *[24]*
Chronic No Observed Effect Level **(C-NOEL)** Invertebrate-**Sea Urchin** (*Arbacia punctulata*) *[TBH3A]*	Report % *[23]*	2/Year *[02/YR]*	Composite *[24]*
Analytical Chemistry [7] *[51477]*	Report ug/L *[28]*	Quarterly *[01/90]*	Composite/Grab *[24/GR]*
Priority Pollutants[8] *[50008]*	Report ug/L *[28]*	1/Year *[01/YR]*	Composite/Grab *[24/GR]*

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

FOOTNOTES: See Pages 12 through 15 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes:

Influent sampling – All influent sampling shall be conducted at a location following the grit tank and prior to entering the wet well.

Effluent sampling – All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics.

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 detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit. See **Attachment A** of this permit for a list of the Department's RLs.

1. ***Tier I*** – Tier I limitations are in effect upon issuance of this permit. Upon completion of the Peak Flow Upgrade Project, the permittee must formally request in writing, and receive written approval from the Department, for authorization to discharge under limitations established in ***Tier II***.

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

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

SPECIAL CONDITIONS

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

Footnotes:

4. **Bacteria Reporting –** The monthly average limitation is a geometric mean limitation and shall be calculated and reported as such.

5. **TRC Monitoring** –Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee shall utilize an EPA-approved test method capable of bracketing the TRC limitations specified in this permitting action.

6. **Whole Effluent Toxicity (WET) Testing** – Definitive WET testing is a multi-concentration testing event [a minimum of five dilutions bracketing the critical modified acute and chronic thresholds of 7.8% and 0.95%, respectively (***Tier I***) and 17.0% and 2.3%, respectively (***Tier II)***], which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematical inverses of the applicable acute and chronic dilution factors of 12.9:1 and 105.8:1, respectively ***(Tier I)*** and 5.9:1 and 44.1:1, respectively ***(Tier II)***. See **Attachment B** of this permit for a copy of the Department's WET reporting form.

   a. **Surveillance level testing**

      Tier I: Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration, the permittee shall conduct surveillance level WET testing for the mysid shrimp (*Mysidopsis bahia*) at a minimum frequency of once per year. Surveillance level WET testing for the sea urchin (*Arbacia punctulata*) is waived pursuant to 06-096 CMR 530.

      Tier II: Beginning upon written approval by the Department and lasting through 12 months prior to permit expiration, the permittee shall conduct surveillance level WET testing at a minimum frequency of once per year for the mysid shrimp and once every other year for the sea urchin pursuant to 06-096 CMR 530.

   b. **Screening level testing**

      Tier I: Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct screening level WET testing at a minimum frequency of once per year for the mysid shrimp (*Mysidopsis bahia*) and the sea urchin (*Arbacia punctulata*) pursuant to 06-096 CMR 530.

      Tier II: Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct screening level WET testing at a minimum frequency of twice per year for the mysid shrimp (*Mysidopsis bahia*) and the sea urchin (*Arbacia punctulata*) pursuant to 06-096 CMR 530.

SPECIAL CONDITIONS

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

Footnotes:

WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds specified above.

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

a. Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to Freshwater Organisms, Fourth Edition, October 2002, EPA-821-R-02-013.

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

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

7. **Analytical chemistry** – Pursuant to 06-096 CMR 530(2)(C)(4), refers to a suite of chemical tests that include ammonia nitrogen (as N), total aluminum, total arsenic, total cadmium, total chromium, total copper, free cyanide (amenable to chlorination), total lead, total nickel, total silver, total zinc and total residual chlorine.

a. **Surveillance level testing**

***Tier I*:** Surveillance level testing is not required pursuant to 06-096 CMR 530(2)(D)(3).

***Tier II*:** Beginning upon written approval by the Department and lasting through 12 months prior to permit expiration, the permittee shall conduct analytical chemistry testing at a frequency of once every other year.

b. **Screening level testing**

Tier I: Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct analytical chemistry testing at a minimum frequency of once per calendar quarter for four consecutive calendar quarters.

Tier II: Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct analytical chemistry testing at a minimum frequency of once per calendar quarter for four consecutive calendar quarters.

SPECIAL CONDITIONS

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

Footnotes:

8. **Priority pollutant testing –** Priority pollutants are those parameters specified in **Attachment A** of this permit.

   a. **Surveillance level testing** – ***Tier I***, ***Tier II:*** is not required pursuant to 06-096 CMR 530.

   b. **Screening level testing** – ***Tier I***, ***Tier II:*** Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per year.

   Priority pollutant and analytical chemistry testing shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests when applicable. Priority pollutant and analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department.

   Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedences of the acute, chronic or human health AWQC as established in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005). For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

9. **BOD5 and TSS –** Limitations are in effect at total daily influent flows above 1.25 MGD. The total daily influent flow criterion of > 1.25 MGD applies on either calendar day of the 24-hour compositing period.

B. NARRATIVE EFFLUENT LIMITATIONS

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

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

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

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS (cont'd)

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

C. TREATMENT PLANT OPERATOR

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

D. LIMITATIONS FOR INDUSTRIAL USERS

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

E. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on June 9, 2010; 2) the terms and conditions of this permit; and 3) only from Outfall #001 and the two (2) combined sewer overflow outfalls (Outfall #002 and Outfall #003) listed in Special Condition J, *Conditions for Combined Sewer Overflows*, of this permit. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

F. NOTIFICATION REQUIREMENT

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

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

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

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

SPECIAL CONDITIONS

F. NOTIFICATION REQUIREMENT (cont'd)

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

G. WET WEATHER FLOW MANAGEMENT PLAN

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

Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility, the permittee shall submit to the Department for review and approval, a new or revised Wet Weather Management Plan which conforms to Department guidelines for such plans. The revised plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events. **The permittee shall review their plan annually** and record any necessary changes to keep the plan up to date.

H. OPERATION & MAINTENANCE (O&M) PLAN

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

By December 31 of each year, **or within 90 days of any process changes or minor equipment upgrades,** the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan shall be kept on-site at all times and made available to Department and EPA personnel upon request.

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

I. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

During the effective period of this permit, the permittee is authorized to **receive** and **introduce** into the treatment process or solids handling stream up to a daily maximum of **3,500 gallons per day [and a monthly total of 105,000 gallons] – *Tier I*** or a daily maximum of **4,500 gallons per day [and a monthly total of 135,000 gallons]** – ***Tier II*** of transported wastes, subject to the following terms and conditions:

1. "Transported wastes" means any liquid non-hazardous waste delivered to a wastewater treatment facility by a truck or other similar conveyance that has different chemical constituents or a greater

SPECIAL CONDITIONS

I. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY (cont'd)

strength than the influent described on the facility's application for a waste discharge license. Such wastes may include, but are not limited to septage, industrial wastes or other wastes to which chemicals in quantities potentially harmful to the treatment facility or receiving water have been added.

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

3. At no time shall the addition of transported wastes cause or contribute to effluent quality violations. Transported wastes may not cause an upset of or pass through the treatment process or have any adverse impact on the sludge disposal practices of the wastewater treatment facility. Wastes that contain heavy metals, toxic chemicals, extreme pH, flammable or corrosive materials in concentrations harmful to the treatment operation must be refused. Odors and traffic from the handling of transported wastes may not result in adverse impacts to the surrounding community. If any adverse effects exist, the receipt or introduction of transported wastes into the treatment process or solids handling stream shall be suspended until there is no further risk of adverse effects.

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

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

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

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

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

7. During wet weather events, transported wastes may be added to the treatment process or solids handling facilities only in accordance with a current Wet Weather Flow Management Plan approved

SPECIAL CONDITIONS

I. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY (cont'd)

by the Department pursuant to Special Condition G that provides for full treatment of transported wastes without adverse impacts.

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

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

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

J. CONDITIONS FOR COMBINED SEWER OVERFLOWS (CSOs)

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

Outfall #	Location	Receiving Water & Class
002	Siphon Chamber South Side Machias River	Machias River, SB
003	Adjacent to Plant via Outfall #001A	Machias River, SB

2. Prohibited Discharges

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

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

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

SPECIAL CONDITIONS

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

3. Narrative Effluent Limitations

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

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

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

   d) Notwithstanding specific conditions of this permit, the effluent by itself or in combination with other discharges shall not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

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

   The permittee shall implement CSO control projects in accordance with the approved CSO Master Plan entitled *Updated CSO Master Plan and Preliminary Engineering Report for Machias Pollution Control Facility, April 2008,* prepared by Olver Associates as amended in William Olver's September 11, 2008 letter to the Betsy Fitzgerald, Machias Town Manager. The permittee shall:

   On or before March 1, 2012, *[PCS Code 04599],* the permittee shall substantially complete the CSO abatement portion of the Treatment Plant Peak Flow Upgrade project.

   On or before December 31, 2014, ***[PCS Code 06699]***, the permittee shall submit to the Department for review and approval an update of the CSO Master Plan analyzing the effectiveness of the abatement projects to date and if necessary, including an implementation schedule for additional abatement projects.

   To modify the dates and or projects specified above, the permittee must file an application with the Department to formally modify the permit. The remaining work items identified in the abatement schedule may be amended from time to time based on mutual agreements between the permittee and the Department. The permittee must notify the Department in writing prior to any proposed changes to the implementation schedule.

5. Nine Minimum Controls (NMC) (see Section 5 Chapter 570 of Department rules)

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

SPECIAL CONDITIONS

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

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

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

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

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

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

   Chapter 570, Section 8, lists requirements relating to any proposed addition of wastewater to the combined sewer system. Documentation of the new wastewater additions to the system and associated mitigating measures shall be included in the annual *CSO Progress Report* (see below). Reports must contain the volumes and characteristics of the wastewater added or authorized for addition and descriptions of the sewer system improvements and estimated effectiveness.

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

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

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

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

SPECIAL CONDITIONS

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

9. Signs

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

TOWN OF MACHIAS
WET WEATHER
SEWAGE DISCHARGE
CSO # AND NAME

10. Definitions

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

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

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

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

K. MERCURY

All mercury sampling (4/Year) required to determine compliance with interim limitations established pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001) shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses shall be conducted in accordance with EPA Method 1631E, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment D,** *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

SPECIAL CONDITIONS

L. 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING

This permitting action establishes reduced surveillance level testing for WET and analytical chemistry testing. **On or before December 31st of each year** of the effective term of this permit ***[PCS Code 95799]***, the permittee shall provide the Department with statements describing the following:

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

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

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

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

M. MONITORING AND REPORTING

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

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

SPECIAL CONDITIONS

N. REOPENING OF PERMIT FOR MODIFICATIONS

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

O. SEVERABILITY

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

ATTACHMENT A

Printed 7/14/2009

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

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

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

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

Date Sample Collected _____ Date Sample Analyzed _____

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

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

MARINE AND ESTUARY VERSION

Please see the footnotes on the last page.

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

Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form
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	PRIORITY POLLUTANTS [4]										
			Effluent Limits					Reporting Limit Check	**Possible Exceedence** [7]		
		Reporting Limit	Acute[6]	Chronic[6]	Health[6]				Acute	Chronic	Health
M	ANTIMONY	5									
M	BERYLLIUM	2									
M	MERCURY (5)	0.2									
M	SELENIUM	5									
M	THALLIUM	4									
A	2,4,6-TRICHLOROPHENOL	3									
A	2,4-DICHLOROPHENOL	5									
A	2,4-DIMETHYLPHENOL	5									
A	2,4-DINITROPHENOL	45									
A	2-CHLOROPHENOL	5									
A	2-NITROPHENOL	5									
A	4,6 DINITRO-O-CRESOL (2-Methyl-4,6-dinitrophenol)	25									
A	4-NITROPHENOL	20									
A	P-CHLORO-M-CRESOL (3-methyl-4-chlorophenol)+B80	5									
A	PENTACHLOROPHENOL	20									
A	PHENOL	5									
BN	1,2,4-TRICHLOROBENZENE	5									
BN	1,2-(O)DICHLOROBENZENE	5									
BN	1,2-DIPHENYLHYDRAZINE	10									
BN	1,3-(M)DICHLOROBENZENE	5									
BN	1,4-(P)DICHLOROBENZENE	5									
BN	2,4-DINITROTOLUENE	6									
BN	2,6-DINITROTOLUENE	5									
BN	2-CHLORONAPHTHALENE	5									
BN	3,3'-DICHLOROBENZIDINE	16.5									
BN	3,4-BENZO(B)FLUORANTHENE	5									
BN	4-BROMOPHENYLPHENYL ETHER	2									
BN	4-CHLOROPHENYL PHENYL ETHER	5									
BN	ACENAPHTHENE	5									
BN	ACENAPHTHYLENE	5									
BN	ANTHRACENE	5									
BN	BENZIDINE	45									
BN	BENZO(A)ANTHRACENE	8									
BN	BENZO(A)PYRENE	3									
BN	BENZO(G,H,I)PERYLENE	5									
BN	BENZO(K)FLUORANTHENE	3									
BN	BIS(2-CHLOROETHOXY)METHANE	5									
BN	BIS(2-CHLOROETHYL)ETHER	6									
BN	BIS(2-CHLOROISOPROPYL)ETHER	6									
BN	BIS(2-ETHYLHEXYL)PHTHALATE	3									
BN	BUTYLBENZYL PHTHALATE	5									
BN	CHRYSENE	3									
BN	DI-N-BUTYL PHTHALATE	5									
BN	DI-N-OCTYL PHTHALATE	5									
BN	DIBENZO(A,H)ANTHRACENE	5									
BN	DIETHYL PHTHALATE	5									
BN	DIMETHYL PHTHALATE	5									

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

BN	FLUORANTHENE	5									
BN	FLUORENE	5									
BN	HEXACHLOROBENZENE	2									
BN	HEXACHLOROBUTADIENE	1									
BN	HEXACHLOROCYCLOPENTADIENE	10									
BN	HEXACHLOROETHANE	2									
BN	INDENO(1,2,3-CD)PYRENE	5									
BN	ISOPHORONE	5									
BN	N-NITROSODI-N-PROPYLAMINE	10									
BN	N-NITROSODIMETHYLAMINE	1									
BN	N-NITROSODIPHENYLAMINE	5									
BN	NAPHTHALENE	5									
BN	NITROBENZENE	5									
BN	PHENANTHRENE	5									
BN	PYRENE	5									
P	4,4'-DDD	0.05									
P	4,4'-DDE	0.05									
P	4,4'-DDT	0.05									
P	A-BHC	0.2									
P	A-ENDOSULFAN	0.05									
P	ALDRIN	0.15									
P	B-BHC	0.05									
P	B-ENDOSULFAN	0.05									
P	CHLORDANE	0.1									
P	D-BHC	0.05									
P	DIELDRIN	0.05									
P	ENDOSULFAN SULFATE	0.1									
P	ENDRIN	0.05									
P	ENDRIN ALDEHYDE	0.05									
P	G-BHC	0.15									
P	HEPTACHLOR	0.15									
P	HEPTACHLOR EPOXIDE	0.1									
P	PCB-1016	0.3									
P	PCB-1221	0.3									
P	PCB-1232	0.3									
P	PCB-1242	0.3									
P	PCB-1248	0.3									
P	PCB-1254	0.3									
P	PCB-1260	0.2									
P	TOXAPHENE	1									
V	1,1,1-TRICHLOROETHANE	5									
V	1,1,2,2-TETRACHLOROETHANE	7									
V	1,1,2-TRICHLOROETHANE	5									
V	1,1-DICHLOROETHANE	5									
V	1,1-DICHLOROETHYLENE (1,1-dichloroethene)	3									
V	1,2-DICHLOROETHANE	3									
V	1,2-DICHLOROPROPANE	6									
V	1,2-TRANS-DICHLOROETHYLENE (1,2-trans-dichloroethene)	5									
V	1,3-DICHLOROPROPYLENE (1,3-dichloropropene)	5									
V	2-CHLOROETHYLVINYL ETHER	20									

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

V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									
V	BROMOFORM	5									
V	CARBON TETRACHLORIDE	5									
V	CHLOROBENZENE	6									
V	CHLORODIBROMOMETHANE	3									
V	CHLOROETHANE	5									
V	CHLOROFORM	5									
V	DICHLOROBROMOMETHANE	3									
V	ETHYLBENZENE	10									
V	METHYL BROMIDE (Bromomethane)	5									
V	METHYL CHLORIDE (Chloromethane)	5									
V	METHYLENE CHLORIDE	5									
V	TETRACHLOROETHYLENE (Perchloroethylene or Tetrachloroethene)	5									
V	TOLUENE	5									
V	TRICHLOROETHYLENE (Trichloroethene)	3									
V	VINYL CHLORIDE	5									

Notes:

(1) Flow average for day pertains to WET/PP composite sample day.

(2) Flow average for month is for month in which WET/PP sample was taken.

(3) Analytical chemistry parameters must be done as part of the WET test chemistry.

(4) Priority Pollutants should be reported in micrograms per liter (ug/L).

(5) Mercury is often reported in nanograms per liter (ng/L) by the contract laboratory, so be sure to convert to micrograms per liter on this spreadsheet.

(6) Effluent Limits are calculated based on dilution factor, background allocation (10%) and water quality reserves (15% - to allow for new or changed discharges or non-point sources).

(7) Possible Exceedence determinations are done for a single sample only on a mass basis using the actual pounds discharged. This analysis does not consider watershed wide allocations for fresh water discharges.

(8) These tests are optional for the receiving water. However, where possible samples of the receiving water should be preserved and saved for the duration of the WET test. In the event of questions about the receiving water's possible effect on the WET results, chemistry tests should then be conducted.

(9) pH and Total Residual Chlorine must be conducted at the time of sample collection. Tests for Total Residual Chlorine need be conducted only when an effluent has been chlorinated or residual chlorine is believed to be present for any other reason.

Comments:

ATTACHMENT B

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS

Facility Name _____ MEPDES Permit # _____

Pipe # _____

Facility Representative _____ Signature _____

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

Facility Telephone # _____ Date Collected _____ Date Tested _____

mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

	mysid shrimp	**sea urchin**
A-NOEL		
C-NOEL		

Effluent Limitations

A-NOEL	
C-NOEL	

Data summary

	mysid shrimp	**sea urchin**
	% survival	**% fertilized**
QC standard	**>90**	**>70**
lab control		
receiving water control		
conc. 1 (%)		
conc. 2 (%)		
conc. 3 (%)		
conc. 4 (%)		
conc. 5 (%)		
conc. 6 (%)		
stat test used		

place * next to values statistically different from controls

Salinity Adjustment

brine	
sea salt	
other	

Reference toxicant

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

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

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

ATTACHMENT C

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
CSO ACTIVITY AND VOLUMES

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

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

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

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

ATTACHMENT D

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

Pipe # _____

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

SAMPLE COLLECTION INFORMATION

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

Sampling Location:

Weather Conditions: _____

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

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

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

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

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

Please Enter Effluent Limits for your facility

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

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

CERTIFICATION

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

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
WASTE DISCHARGE LICENSE

FACT SHEET

January 10, 2011

MEPDES PERMIT: **ME0100323**
WASTE DISCHARGE LICENSE: **W002674-6C-F-R**

NAME AND ADDRESS OF APPLICANT:

TOWN OF MACHIAS
WATER POLLUTION CONTROL FACILITY
P.O. BOX 418
MACHIAS, MAINE 04654

COUNTY: **WASHINGTON**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

TOWN OF MACHIAS WATER POLLUTION CONTROL FACILITY
33 KILTON LANE
MACHIAS, ME 04654

AND

COMBINED SEWER OVERFLOW (CSO) OUTFALLS:

Outfall #	Location	Receiving Water & Class
002	Siphon Chamber South Side Machias River	Machias River, SB
003	Adjacent to Plant via Outfall #001A	Machias River, SB

RECEIVING WATER / CLASSIFICATION: **MACHIAS RIVER/CLASS SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Chris Loughlin, Town Manager**
(207) 225-6621

1. APPLICATION SUMMARY

The permittee has applied to the Department for renewal of Maine Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System (MEPDES) permit # W002674-5L-D-R / ME0100323, which was issued on September 6, 2005 and expired on September 6, 2010. The permit authorized the monthly average discharge of up to 0.37 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) as well as the discharge of an unspecified quantity of excess combined sanitary and storm water during wet weather events from two (2) combined sewer overflow (CSO) outfalls to the Machias River, Class SB, in Machias, Maine. The permittee is undertaking a Peak Flow Upgrade that will increase the average daily flow design from 0.37 MGD to 0.90 MGD. This permitting action reflects the permittee's present ***(Tier I)*** and after-upgrade ***(Tier II)*** operating conditions.

2. PERMIT MODIFICATIONS REQUESTED

1. The permittee requests that the Department replace the EPA's 1996 National Ambient Water Quality Criteria for total copper [2.9 parts per billion (ppb)] with the EPA's 2002 National Ambient Water Quality Criteria for total copper [5.78 ppb].

2. The permittee requests that the Department adjust the total copper mass limitation upon completion of the Peak Flow Upgrade Project in order to reflect the monthly average design flow of 0.90 MGD.

3. The permittee requests the Department provide "Report Only" requirements for the BOD5 and TSS daily maximum mass standards or provide a higher mass loading limits for peak flow days.

4. The permittee requests that the Department increase the permitted amount of transported wastes received from 2,000 gpd to 3,500 gpd.

5. The permittee requests the Department establish "Report Only" requirements for the BOD5 and TSS weekly average mass limits when the total daily influent flow exceeds 1.25 MGD.

3. PERMIT MODIFICATION REQUESTS GRANTED

1. The Department is applying the EPA's 2002 National Ambient Water Quality Criteria for total copper as adopted in *Surface Water Quality Criteria for Toxic Pollutants,* 06-096 CMR 584 (effective October 9, 2005).

2. The Department is eliminating the permittee's effluent limitations for total copper based on a recent 60-month evaluation of the permittee's data per *Surface Water Toxics Control Program,* 06-096 CMR 530 (effective October 9, 2005).

3. The Department is approving an increase in the volume of transported wastes received from 2,000 gpd to 3,500 gpd for *Tier I* (present operating conditions) and from 3,500 gpd to 4,500 gpd, for ***Tier II*** (post-upgrade conditions) based on *Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities,* 06-096 CMR 555 (effective March 9, 2009).

3. PERMIT MODIFICATION REQUESTS GRANTED (cont'd)

4. The Department is approving the permittee's request to provide "Report Only" requirements for the BOD5 and TSS daily maximum mass limitations based on Department Best Professional Judgment (BPJ).

5. The Department is approving the permittee's request to require "Report Only" BOD5 and TSS weekly average mass limitations based on Department BPJ. The Department is establishing a requirement that the "Report Only" limitations are in effect when the total daily influent flow exceeds 1.25 MGD.

4. PERMIT SUMMARY

a. This permitting action (*TIER I and TIER II* unless otherwise noted) is similar to the September 6, 2005 permitting action in that it is:

1. Carrying forward the monthly average discharge flow limitation of 0.37 MGD (***TIER I***);

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

3. Carrying forward the daily maximum technology-based concentration limitation for settleable solids;

4. Carrying forward the monthly average and daily maximum water quality-based concentration limitations for fecal coliform bacteria;

5. Carrying forward the technology based monthly average and water quality based daily maximum concentration limitations for total residual chlorine (TRC) (***TIER I***);

6. Carrying forward the technology based monthly average TRC concentration limitation (***TIER I***);

7. Carrying forward the reduced surveillance level whole effluent toxicity (WET) testing frequency for the sea urchin (*Arbacia punctulata*), priority pollutant and chemical-specific testing requirements;

8. Carrying forward screening-level WET, priority pollutant and analytical chemistry testing requirements (***TIER I***);

9. Carrying forward a requirement for a 30-day average minimum of 85% removal of BOD_5 and TSS;

10. Carrying forward the pH range limitation of 6.0 to 9.0 SU;

11. Carrying forward the requirement to maintain a current Wet Weather Management Plan and Operation and Maintenance Plan.

4. PERMIT SUMMARY (cont'd)

This permitting action (*TIER I and TIER II* unless otherwise noted) is different from the September 6, 2005 permitting action in that it is:

12. Eliminating the WET testing requirements for the inland silverside (*Menidia beryllina*);

13. Establishing numerical limitations and full surveillance level monitoring requirement for the mysid shrimp (*Mysidopsis bahia*);

14. Establishing screening level WET testing requirements (***TIER II***);

15. Revising the monthly average design flow from 0.37 MGD to 0.90 MGD (***TIER II***);

16. Revising the water quality based daily maximum TRC concentration limitation (***TIER II***);

17. Establishing an annual certification statement requirement as Special Condition L, "Statement for Reduced/Waived Toxics Testing;"

18. Revising BOD5 and TSS mass limits (***TIER II***) based on an increase in monthly average design flow;

19. Revising the limits for receipt of transported wastes from 2,000 gallons per day to 3,500 gallons per day (***TIER I***); and from 3,500 gallons per day to 4,500 gallons per day (***TIER II***);

20. Reducing the settleable solids minimum monitoring frequency from 1/Day to three times per week (3/Week) based upon Department BPJ;

21. Eliminating the requirement for the submission of annual reports to address copper toxicity reduction efforts;

22. Eliminating numerical limitations and quarterly monitoring requirements for total copper;

23. Revising the fecal coliform testing frequency from 3/Week to 1/Week based on compliance history and Department guidance (***TIER I***);

24. Revising the fecal coliform testing frequency from 1/Week to 2/Week based on Department guidance (***TIER II***);

25. Revising the BOD5 and TSS daily maximum mass limits from numerical to "Report Only" limits;

26. Revising the BOD5 and TSS weekly average mass limits from numerical to "Report Only" limits when the total daily influent flow exceeds 1.25 MGD;

27. Reclassifying the permittee from a Maine Grade II biological secondary wastewater treatment facility to a Maine Grade III biological secondary wastewater treatment facility (***TIER II***) per *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006);

4. PERMIT SUMMARY (cont'd)

28. Requiring a Maine Grade III wastewater operator certification (or higher) (***TIER II***) of the person who has management responsibility over the treatment facility per *Sewerage Treatment Plant Operators*, Title 32 MRSA, Sections 4171-4182 and 06-096 CMR 531;

29. Revising the BOD5 and TSS monitoring frequencies from once per week to twice per week based on Department guidance (***TIER II***).

b. Facility History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the permittee.

April 27, 2000 – The USEPA issued NPDES permit #ME0100323 to the permittee for the monthly average discharge of up to 0.37 MGD of secondary treated sanitary wastewater and an unspecified quantity of untreated combined sanitary and storm water via two combined sewer overflow (CSO) points to the Machias River in Machias. The 4/27/00 permit superseded previous NPDES permits issued on June 3, 1993, December 30, 1987, and January 7, 1983.

May 22, 2000 – The Department issued WDL #W002674-5L-B-R to the permittee for the monthly average discharge of up to 0.37 MGD of secondary treated sanitary wastewater and an unspecified quantity of untreated combined sanitary and storm water via two combined sewer overflow (CSO) points to the Machias River in Machias. The 5/22/00 WDL superseded WDL #W002674-59-A-R issued on June 22, 1988 and WDL #2674 issued on June 22, 1983. The 5/22/00 WDL expired on May 22, 2005.

October 2000 – A Master Plan document prepared by Olver Associates, Inc. and entitled, "*Sewer System Master Plan For CSO Abatement and Treatment Plant Expansion, Town of Machias, Maine*" was submitted to the Department and the USEPA for review and approval. The Master Plan assessed a full range of abatement alternatives, taking into consideration technical, environmental, and economic factors, and provided for on-going compliance monitoring to be done during implementation of recommended abatement measures.

August 11, 2000 – Pursuant to Maine law, 38 M.R.S.A. §420 and §413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519, the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL #W002674-5L-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 19.3 parts per trillion (ppt) and 29.0 ppt, respectively, and a minimum monitoring frequency requirement of 4 tests per year for mercury. It is noted that the mercury effluent limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as the limits and monitoring frequencies are regulated separately through Maine law, 38 M.R.S.A. §420, §413 and Department rule Chapter 519. The interim mercury limits remain in effect and enforceable and modifications to the limits and/or monitoring frequencies will be formalized outside of this permitting document.

November 12, 2002 – The permittee submitted a revised CSO schedule.

4. PERMIT SUMMARY (cont'd)

January 29, 2003 – The permittee completed the installation of a new alarm system at the siphon chamber pump station and put the system into operation.

April 24, 2003 – The Department issued a Notice of Violation (NOV) to the permittee for violations of BOD, TSS, settleable solids, TRC, and fecal coliform effluent limits established in WDL #W002674-5L-B-R and other conditions applicable to the WDL. The Town responded to the NOV in a letter dated May 12, 2003.

December 18, 2003 – The CSO Master Plan and Schedule were approved by the Department.

July 20, 2004 – The Department requested the permittee submit a toxicity reduction evaluation (TRE) plan to the Department, for review and approval, by September 1, 2004 to address continuing exceedences of the effluent copper limits established in WDL #W002674-5L-B-R. The permittee's consulting engineer, Olver Associates, Inc., responded to the Department's 7/20/04 request by requesting an extension on the TRE submission date to October 31, 2004. The Department did not grant a submission extension.

September 22, 2004 – The Department issued a letter to the permittee in which the facility inspector requested that the permittee immediately increase the fecal coliform bacteria sampling frequency from once per week to three times per week based on mechanical problems associated with the disinfection chemical feed pumps.

November 8, 2004 – Olver Associates, Inc. submitted a letter including a TRE to the Department, for review and approval, to identify and propose mitigation of sources of copper in the final effluent. The TRE identified leaching of copper from the drinking water distribution system as the primary source of elevated copper in the wastewater. The distribution system is owned and operated by Machias Water Company, a private company with no municipal affiliation. Olver Associates, Inc. identified that the concentration of copper in the raw ground water source wells (10 ppb, parts per billion) used by Machias Water Company does not exceed the human health-based standard of 1.3 ppm (parts per million); consequently, Machias Water Company is not obligated to treat potable water for copper reduction/removal. The permittee proposes to negotiate copper effluent limits with the Department based on proposed changes to the ambient water quality criteria (AWQC) for copper.

December 21, 2004 – The Department responded to the Town's 11/8/04 letter and TRE proposal stating that re-examination of the effluent limits for copper *"is the best approach as long as the acute copper criterion is changed"* and further stated that *"if the new acute copper criterion is not adopted, the focus should be examining the dilution ratio and looking for source reduction opportunities."* As of the effective date of this permitting action, however, the AWQC for copper has not been revised and the permittee, therefore, is subject to existing AWQC for copper.

4. PERMIT SUMMARY (cont'd)

January 12, 2005 – The Department issued a Letter of Warning (LOW) to the permittee for violations of TRC, pH and fecal coliform bacteria effluent limitations that occurred between May 2004 and November 2004. The LOW identified operator error as causation for the violations and requested that the permittee submit a letter to the Department by February 4, 2005, which details the permittee's plan to address circumstances resulting in the violations. The Department's 1/12/05 LOW followed a previous LOW issued to the permittee on March 23, 2004 for additional violations caused by operator error. In the 3/23/04 LOW, the

Department requested that the permittee provide training to the treatment plant operators to ensure they have familiarity with proper treatment plant operations and license conditions. The permittee responded by establishing a training schedule for the assistant operator.

September 6, 2005 – The Department issued WDL#W002674-5L-D-R for a five-year term.

April 10, 2006 – The Department issued a modification of the WDL #W002674-5L-D-R to incorporate the testing requirements of Department rules Chapter 530 and Chapter 584.

December 3, 2008 – The Department issued a modification to WDL#W002674-5L-D-R to incorporate changes to the milestones in Special Condition L, *Conditions for Combined Sewer Overflows (CSOs)*, due to funding challenges that have delayed completion of projects, thereby issuing WDL#W002674-5L-E-M.

June 9, 2010- The permittee submitted a complete and timely application for renewal of WDL#W002674-5L-D-R. The Department accepted the application on 6/09/10 and assigned WDL #002674-6C-F-R.

c. Source Description: The permittee owns and operates a municipal wastewater treatment facility which was built in 1972 and is located on Lower Main Street in Machias, Maine, for the treatment of wastewater generated by approximately 600 domestic and commercial users within the Town of Machias. The sewer collection system consists of approximately seven miles of interceptor and gravity sewers and an inverted siphon chamber containing a comminutor and no pump stations. The interceptor system is divided into two basic components: the North Shore and South Shore subareas. The North Shore interceptor collects wastewater from the northern side of the community based on a dividing line established by the Machias River. The majority of the collection system is located on the north side of the community. The South Shore interceptor collects wastewater from the south side of the river, including contributions from the University of Maine and the shopping centers located on U.S. Route 1. A portion of the system on the south side of town is privately owned and consists of older vitrified clay pipe. As part of the upgrade, the collection system will be expanded to include several dwellings in East Machias, Maine.

Wastewater entering the facility is of domestic and commercial origin. The permittee accepts transported wastes via a manhole that discharges to the headworks. A former industrial user, Maine Wild Blueberry Company, ceased discharging process wastewater to the permittee in November 2005. The only current significant user is the University of Maine at Machias. The permittee did not provide data to characterize the flow rate from the University.

4. PERMIT SUMMARY (cont'd)

A map showing the location of the treatment facility is included as Fact Sheet **Attachment A**.

d. Wastewater Treatment: The permittee provides a secondary level of treatment via an activated sludge treatment process with extended aeration. The facility underwent major modifications in 1989 to improve the operating conditions of the facility and is in the process of another major upgrade that will include the addition of a third secondary clarifier.

The collection system transports wastewater to the facility headworks structure, which consists of a comminutor and a manual bypass bar rack, a 5,275-gallon capacity aerated grit chamber, a grit removal pump, and a cyclone grit classifier. Except for when the comminutor is down for service, it operates continuously. The influent flows by gravity into an influent wet well and from there the wastewater is pumped directly to two (2) aeration tanks, with each having a capacity of 0.155 MGD. The aeration system was upgraded in 2006 with new fine bubble diffusers and new blowers in order to meet pollutant loadings of 2000 lbs/day BOD5 and TSS.

Following aeration, the wastewater enters a flow splitter box and is distributed to two 32 foot diameter secondary clarifiers. Each clarifier has a design capacity of 0.072 MGD. These two clarifiers are undersized for peak flows and in the past were prone to solids washout. As part of the Peak Flow Upgrade, a third, 34 foot diameter clarifier will be added to treat peak flows. Settled sludge from both clarifiers is either returned to the process as activated sludge or is pumped to a 20,350-gallon capacity sludge thickening tank. The thickened sludge is transferred to an aerated sludge digester tank, which has a capacity of 0.15 MGD. From the digester, sludge is pumped to a 20,345-gallon lime mix tank where lime is added to achieve a pH of 12 SU.

Effluent exits the clarifiers through two 24-inch diameter lines and is conveyed to a 10,000-gallon capacity chlorine contact chamber where sodium hypochlorite and sodium bisulfite are added for disinfection and dechlorination, respectively. The upgrade will include the installation of a new chlorine contact tank adjacent to the existing tank to provide sufficient disinfection. The effluent flow meter will be upgraded at the same time.

Final effluent is conveyed for discharge to the Machias River via an 18-inch diameter outfall pipe that, according to Town records, extends approximately 300 linear feet into the receiving water from the spring high tide level to a depth of approximately three (3) feet below the surface of the water at mean low tide. The design at the time did not take into consideration the tidal influence of the Machias River. The outfall discharges effluent flow, CSO flows, and stormwater to the Machias River. The outfall is underdesigned and is prone to backups into the chlorine contact tank. Past CSO events have occurred, in part, because peak flows could not be pumped into the wastewater treatment facility by influent pumps or because high tidal events during wet weather periods prevented water from being discharged from the facility through its submerged outfall. Undersized unit processes at the facility also limited the peak flow that can be properly treated. The permittee's proposed Peak Flow Upgrade Project will improve many of the facility's components. The key components of the upgrade are included as Fact Sheet **Attachment B**.

4. PERMIT SUMMARY (cont'd)

The Peak Flow Upgrade Project is expected to be constructed during 2010 and 2011. To overcome the tide at peak flow conditions, an effluent siphon structure will be constructed along with a separate, 18 inch HDPE outfall. The upgrade will also include a CSO pump station with a daily maximum design flow of 3.95 MGD and 5.50 MGD peak flow rate. The outfall pipe is not fitted with a diffuser or other mechanism to enhance mixing of the effluent with the receiving water. The mixing characteristics of the effluent with the receiving water have not been determined. A schematic of the wastewater treatment process is included as Fact Sheet **Attachment C**.

For brief periods, the wastewater treatment facility is designed to accept peak hourly flows of up to 1.25 MGD. The facility also has a design capacity to treat up to 2,000 lbs/day of organic pollutant loading. Wet weather peak flows in the collection system periodically exceed the 1.25 MGD design capacity. The maximum hydraulic flow that can enter the facility is approximately 2.0 MGD. When this flow level is reached, peak flows begin to back up in the interceptor sewer system and surcharge the collection system manholes. These hydraulic overloading conditions are associated with wet weather precipitation events. Because peak flows in the collection system under surcharged conditions can create instantaneous flow peaks of between 9.0 MGD and 10.0 MGD/inch/hour of rainfall intensity, two relief points were added to the collection system in 1972 to allow excess flows to be bypassed. These combined sewer overflows are located at the wastewater treatment facility (Outfall #003) and on the south side of the Machias River off Elm Street (Outfall #002) and are identified in Special Condition J, *Conditions For Combined Sewer Overflows (CSOs)*, of this permit.

During the last seven years, over 13,000 linear feet of sewer lines have been replaced, resulting in a 51 percent decrease in average daily flows to the wastewater treatment facility. In addition, groundwater infiltration has been reduced by 78 percent, and stormwater inflow has been reduced by 43 percent on an annual basis. However, the facility still experiences high peak flow loadings above the design capacity. The approach recommended in the 2000 CSO Master Plan was to remove excess flows upstream in the collection system as well as to conduct a limited upgrade of the wastewater treatment facility to enhance its peak flow hydraulic capacity.

5. CONDITIONS OF PERMIT

Conditions of Licenses, 38 M.R.S.A. Section 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain Deposits and Discharges Prohibited,* 38 M.R.S.A. Section 420 and *Surface Water 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.

6. RECEIVING WATER QUALITY STANDARDS

Classification of Major River Basins, 38 M.R.S.A. §469, classifies all estuarine and marine waters lying within the boundaries of the State and which are not otherwise classified, which includes the Machias River at the point of discharge, as Class SB waters. Maine law, 38 M.R.S.A. §465-B(2) describes the standards for Class SB waters.

7. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the marine waters at the permittee's outfall (Waterbody #709-1) as, *"Category 2: Estuarine and Marine Waters Attaining Some Designated Uses – Insufficient Information for Other Uses."* Attainment in this context is in regard to the designated use of the harvesting of shellfish. Currently, portions of the Maine Department of Marine Resources' Shellfish Harvesting Area #55-E (formerly Area #55 and including the Machias and East Machias Rivers and Machias Bay) around the treatment plant outfall are conditionally restricted, prohibited or conditionally approved due to the presence of overboard discharges and the permittee's outfall location. Compliance with the fecal coliform bacteria limits in this permitting action and year-round disinfection ensure that the discharge from the permittee maintains the safety zone established by the Department of Marine Resources for shellfish harvesting areas. The shellfish closure areas are identified on the map included as **Attachment D** of this Fact Sheet.

8. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Flow: This permitting action is carrying forward a continuous flow recorder monitoring requirement. This permitting action is carrying forward a monthly average discharge flow limitation of 0.37 MGD for ***Tier I*** (pre-2010 upgrade) and establishing a discharge flow limitation of 0.90 MGD for ***Tier II*** (post-2010 upgrade). The Department is establishing new BOD5 and TSS monitoring requirements when the total daily influent flow exceeds 1.25 MGD. See Section 8(c) of this Fact Sheet for more information.

A summary of discharge flow data as reported on the monthly Discharge Monitoring Reports (DMRs) submitted to the Department for the period April 2005 – April 2010 (# DMRs = 56) indicates the monthly average discharge flow ranged from 0.06 MGD to 0.91 MGD with an arithmetic mean of 0.29 MGD. The permittee was in compliance with their monthly average flow limitation 79% of the time.

b. Dilution Factors: 06-096 CMR 530(D)(3)(b) states that, *"for discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE or CORMIX."*
The Department has determined that dilution factors associated with the discharge from the permittee should be based on the 1Q10 and 7Q10 stream design flows rather than the CORMIX model due to potential inaccuracies associated with using the CORMIX model resulting from the outfall configuration and ambient receiving water conditions. Therefore, this permitting

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

action is calculating dilution factors associated with the discharge from the permittee as follows:

Tier I

Acute: 1Q10 = 27.2 cfs ⇒ $\frac{(27.2\ cfs)(0.6464) + 0.37\ MGD}{0.37\ MGD} = 48.5:1$

Mod. Acute: ¼ 1Q10 = 6.8 cfs ⇒ $\frac{(6.8\ cfs)(0.6464) + 0.37\ MGD}{0.37\ MGD} = 12.9:1$

Chronic: 7Q10 = 60.0 cfs ⇒ $\frac{(60.0\ cfs)(0.6464) + 0.37\ MGD}{0.37\ MGD} = 105.8:1$

Harmonic Mean[(1)]: 7Q10 = 180.0 cfs ⇒ $\frac{(180.0\ cfs)(0.6464) + 0.37\ MGD}{0.37\ MGD} = 315.5:1$

Tier II

Acute: 1Q10 = 27.2 cfs ⇒ $\frac{(27.2\ cfs)(0.6464) + 0.90MGD}{0.90\ MGD} = 20.5:1$

Mod. Acute: ¼ 1Q10 = 6.8 cfs ⇒ $\frac{(6.8\ cfs)(0.6464) + 0.90\ MGD}{0.90\ MGD} = 5.9:1$

Chronic: 7Q10 = 60.0 cfs ⇒ $\frac{(60.0\ cfs)(0.6464) + 0.90\ MGD}{0.90\ MGD} = 44.1:1$

Harmonic Mean[(1)]: 7Q10 = 180.0 cfs ⇒ $\frac{(180.0\ cfs)(0.6464) + 0.90\ MGD}{0.90\ MGD} = 130.3:1$

06-096 CMR 530 (D)(4)(a) states:

Analyses using numerical acute criteria for aquatic life must be based on ¼ of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone, according to EPA's Mixing Zone Policy and to ensure a Zone of Passage of at least ¾ of the cross-sectional area of any steam as required by Department rule. Where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water, by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design, up to and including all of it, as long as the Zone of Passage is maintained.

The Department has determined that, for a significant period of time at low slack tide, there is no velocity and rapid/complete mixing of the effluent with the receiving water does not occur. Therefore, the Department is utilizing ¼ of the 1Q10 stream design flow in acute evaluations as required by Chapter 530 of the Department's rules.

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

Footnote:

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

c. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS): This permitting action is carrying forward monthly and weekly average BOD_5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L, respectively, that are based on secondary treatment requirements as defined in *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III)(effective January 12, 2001). This permitting action is carrying forward daily maximum BOD_5 and TSS concentration limits of 50 mg/L based on a Department best professional judgment (BPJ) of BPT. This permitting action is revising the BOD_5 and TSS daily maximum mass limitations from numerical to "Report Only" limits in order to minimize CSO activity and maximize the volume of influent flow the permittee can treat without being penalized for doing so. Because the CSOs discharge to waters with a high resource for shellfishing, the Department has made a BPJ decision granting the permittee's request to establish "Report Only" weekly mass limitations in order to maximize the volume of influent flow treated. The "Report Only" weekly mass limitations are in effect only when the total daily influent flow exceeds 1.25 MGD.

The BOD_5 and TSS mass limits were derived as follows:

Tier I

Monthly Average Mass Limit: (30 mg/L)(8.34 lbs/gallon)(0.37 MGD) = 93 lbs/day

Weekly Average Mass Limit: (45 mg/L)(8.34 lbs/gallon)(0.37 MGD) = 139 lbs/day (at flows $\leq$ 1.25 MGD*)

Weekly Average Mass Limit: Report (at flows > 1.25 MGD*)
Daily Maximum Mass Limit: Report

Tier II

Monthly Average Mass Limit: (30 mg/L)(8.34 lbs/gallon)(0.90 MGD) = 225 lbs/day

Weekly Average Mass Limit: (45 mg/L)(8.34 lbs/gallon)(0.90 MGD) = 338 lbs/day (at flows $\leq$ 1.25 MGD*)

Weekly Average Mass Limit: Report (at flows > 1.25 MGD*)
Daily Maximum Mass Limit: Report

* Total daily influent flows

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

This permitting action is carrying forward the requirements for the permittee to achieve a monthly average of 85% removal for BOD_5 and TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3).

A review of the DMR data for the period April 2005 to April 2010 indicates the monthly average and daily maximum mass and concentration values have been reported as follows:

BOD_5 Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	93	4 – 63	15	56	100%
Daily Maximum	154	6 – 203	26	56	98%

BOD_5 Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	3 – 10	6	56	100%
Daily Maximum	50	4 – 25	9	56	100%

TSS mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	93	3 – 68	15	56	100%
Daily Maximum	154	3 – 203	28	56	98%

TSS concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	2 – 15	7	56	100%
Daily Maximum	50	3 – 34	11	56	100%

This permitting action is carrying forward the BOD5 and TSS minimum monitoring frequency of once per week (***Tier I***) and is establishing a minimum monitoring frequency of twice per week (***Tier II***) based on Department guidance for POTWs permitted to discharge between 0.1 MGD and 0.5 MGD (***Tier I***) and between 0.5 and 1.5 MGD (***Tier II***).

d. Settleable Solids: This permitting action is carrying forward the technology-based settleable solids daily maximum concentration limit of 0.3 mL/L as it is considered by the Department to be BPT for secondary treated sanitary wastewater. In the past, due to the undersized secondary clarifiers, the permittee was prone to solids washout at peak flows; however, an evaluation of data generated April 2005 to April 2010 (# of DMRs = 56) shows that the permittee was in compliance with the settleable solids daily maximum limit 100% of the time. Based upon the permittee's excellent compliance history, this permitting action is reducing the settleable solids

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

minimum monitoring frequency from 1/Day to three times per week (3/Week, ***Tier I and Tier II***) based upon Department BPJ.

e. Fecal Coliform Bacteria: This permitting action is carrying forward the fecal coliform monthly average (geometric mean) and daily maximum (instantaneous) water quality-based concentration limits of 15 colonies/100 mL and 50 colonies/100 mL, respectively (***Tier I and Tier II***), which are consistent with the National Shellfish Sanitation Program.

The previous permitting action required an increase in the bacteria sampling rate from once per week to three times per week (3/Week) for the permittee based on several instances of non-compliance with the numeric limits and problems with the disinfection chemical feed pumps. The permittee indicated that the sodium hypochlorite and sodium bisulfite feed rates were recently evaluated and new pumps purchased to ensure there is disinfection and dechlorination capacity for all operating conditions. This permitting action is revising the fecal coliform testing frequency from 3/Week to 1/Week (***Tier I***) based on the permittee's compliance history and Department guidance for POTWs permitted to discharge between 0.1 MGD and 0.5 MGD. This permitting action is establishing a fecal coliform monitoring frequency of 2/Week (***Tier II***) based on Department guidance for POTWs permitted to discharge between 0.5 MGD and 1.5 MGD.

A review of the monthly DMR data for the period April 2005 through April 2010 indicates the monthly average and daily maximum fecal coliform values have been reported as follows:

Fecal coliform bacteria

Value	Limit (#col/100 mL)	Range (#col/100 ml)	Arith. Mean (#col/100 mL)	Number of DMRs	Compliance
Monthly Average	15	< 2 – 8	3	56	100%
Daily Maximum	50	2 – 56	15	56	98%

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

f. Total Residual Chlorine (TRC): Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT is being applied to the discharge. Department licensing/permitting actions impose the more stringent of either a water quality-based or BPT limit. End-of-pipe water quality-based concentration thresholds may be calculated as follows:

Tier I			Calculated	
Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	12.9:1 (Mod. A) 105.8:1 (C)	0.17 mg/L	0.80 mg/L

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

Tier II			Calculated	
Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	5.9:1 (Mod. A) 44.1:1 (C)	0.08 mg/L	0.33 mg/L

Example TRC calculation, Modified Acute ***(Tier I)***: (0.013)(12.9) = 0.17 mg/L

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that must dechlorinate the effluent in order to consistently achieve compliance with water quality based thresholds, as in the case of the permittee, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively.

Tier I: The permittee's calculated acute water quality-based threshold of 0.17 mg/L is more stringent than the daily maximum technology-based standard of 0.3 mg/L and is therefore being carried forward in ***Tier I*** of this permitting action. The monthly average technology-based standard of 0.1 mg/L is more stringent than the calculated chronic water quality-based threshold of 0.80 mg/L and is therefore being carried forward in ***Tier I*** of this permitting action.

Tier II: The permittee's calculated acute water quality-based threshold of 0.08 mg/L is more stringent than the daily maximum technology-based standard of 0.3 mg/L and is therefore being established as the daily maximum TRC limitation in ***Tier II*** of this permitting action. The monthly average technology-based standard of 0.1 mg/L is more stringent than the calculated chronic water quality-based threshold of 0.33 mg/L and is therefore being carried forward in ***Tier II*** of this permitting action.

Tier I and Tier II: This permitting action is carrying forward the minimum monitoring frequency of once per day (1/Day) based on Department guidance for POTWs permitted to discharge up to 1.5 MGD.

A review of the DMR data for the period April 2005 through April 2010 indicates the daily maximum and monthly average TRC values have been reported as follows:

Total residual chlorine

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)	Number of DMRs	Compliance
Daily Maximum	0.17	0.01 – 0.05	0.03	56	100%
Monthly Average	0.1	0.04 – 0.45	0.10	56	80%

g. pH: Pursuant to *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III)(c) (effective January 12, 2001), this permitting action is carrying forward the pH range limitation of 6.0 – 9.0 SU (***Tier I and Tier II***), which is considered BPT for secondary treated wastewater. A review of the DMR data for the period April 2005 through April 2010 (#DMRs = 56) showed that the permittee was in compliance with the pH limitations 100% of the time. This permitting

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

action is carrying forward the pH minimum monitoring frequency requirement of once per day (1/Day) based on Department guidance for POTWs permitted to discharge up to 1.5 MGD.

h. Total Copper: The previous permitting action carried forward total copper daily maximum effluent limitations based on the acute AWQC of 2.90 ug/L. In November 2005, the Department revised the total copper acute AWQC from 2.90 ug/L to 5.78 ug/L and the total copper chronic AWQC from 2.9 ug/L to 3.73 ug/L. Further discussion of total copper evaluations is in Item 9(i), *Whole Effluent Toxicity (WET) and Chemical-Specific Testing*, of this Fact Sheet.

A review of the DMR data for the period April 2005 through April 2010 indicates the daily maximum total copper values have been reported as follows:

Total Copper

Value	Limit	Range	Mean	Number of DMRs	Compliance
Daily Max	0.12 lbs/day	0.02 – 0.25 lbs/day	0.05 lbs/day	18	94%
Daily Max	56 ug/L	7 – 43 ug/L	27 ug/L	18	100%

i. Whole Effluent Toxicity (WET) and Chemical-Specific Testing: 38 M.R.S.A. Sections 414-A and 420 prohibit the discharge of effluent containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. 06-096 CMR 530 and 06-096 CMR 584 set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

WET, priority pollutant and analytical chemistry testing, as required by 06-096 CMR 530, is included in this permit in order to characterize the effluent. WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. On April 10, 2006, the Department amended WDL# W002674-5L-D-R by issuing a Surface Waters Toxics Control Program fact sheet for this facility and establishing or revising test frequencies to be consistent with 06-096 CMR 530 requirements and provisions for reduced testing.

Chemical-specific monitoring is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health water quality criteria. Priority pollutant testing refers to the analysis for levels of priority pollutants listed in 06-096 CMR 525(4)(VI). The permittee is required to analyze the effluent for the nine (9) parameters specified in the WET chemistry section and the twelve (12) parameters specified in the analytical chemistry section on the "WET and Chemical Specific Data Report Form" included as **Attachment A** of this permit each time a WET test is performed.

06-096 CMR 530(2)(B) categorizes dischargers subject to the toxics rule into one of four levels (Levels I through IV). Level III dischargers are, "*Those dischargers having a chronic dilution*

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

factor of at least 100 but less than 500 to 1, or dischargers having a chronic dilution factor of more than 500 to 1 and a permitted flow of 1 million gallons per day or greater." The chronic dilution factor associated with the discharge from the permittee in ***Tier I*** of this permitting action is 105.8:1; therefore, this facility is considered a Level III facility for purposes of toxics testing. Level II dischargers are, *"Those dischargers having a chronic dilution factor of at least 20 but less than 100 to 1."* The chronic dilution factor associated with the discharge from the permittee in ***Tier II*** of his permitting action is 44.1:1; therefore, this facility shall be considered a Level II facility for the purposes of toxics testing.

WET Evaluation

On August 2, 2010, the Department conducted a statistical evaluation on the most recent 60 months of WET test results on file with the Department for the permittee in accordance with the statistical approach outlined above. The results of the 8/2/10 WET evaluations indicate that the discharge has a reasonable potential to exceed the critical acute WET NOEL thresholds of 7.8% and 17.0%, respectively (mathematical inverses of the applicable acute dilution factors for ***Tier I*** and ***Tier II***, respectively). See **Attachment E** of this fact sheet for a summary of the WET test results. (NOTE: Results transposed. Corrections were hand-entered in attachment.)

06-096 CMR 530(2)(D)(3)(b) states, in part, *"Dischargers in Level III and IV may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)."* Based on the provisions of 06-096 CMR 530, this permitting action is carrying forward Level III reduced surveillance level WET testing requirements for the sea urchin (***Tier I***). This permitting action is establishing Level III full surveillance WET testing requirements for the mysid shrimp (***Tier I)***. This permitting action is carrying forward the Level III screening level WET testing requirements as specified in 06-096 CMR 530(2)(D) (***Tier I***).

06-096 CMR 530(2)(D)(3)(c) states, *"Dischargers in Level II may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to sections 3(E)."* This permitting action is establishing Level II reduced surveillance level WET testing requirements for the sea urchin (***Tier II***). This permitting action is establishing Level II full surveillance WET testing requirements for the mysid shrimp (***Tier II***). This permitting action is establishing Level II screening level WET testing requirements as specified in 06-096 CMR 530(2)(D) (***Tier II***). A summary of the permittee's WET testing requirements is below:

Surveillance level testing –Beginning upon issuance of the permit (Tier I)/Beginning upon written approval by the Department (Tier II) and lasting through 12 months prior to permit expiration.

Operating Conditions	WET Test	Frequency
Tier I	Mysid shrimp	1/year
Tier I	Sea urchin	None
Tier II	Mysid shrimp	1/year
Tier II	Sea urchin	1/2 year*

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

*1/2 year = One test every 2 years.

Screening level testing – Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, whichever is sooner.

Operating Conditions	WET Test	Frequency
Tier I	Mysid shrimp, Sea urchin	1/ year
Tier II	Mysid shrimp, Sea urchin	2/ year

06-096 CMR 530(2)(D)(4) states, *"All dischargers having waived or reduced testing must file statements with the Department on or before December 31 of each year describing the following.*

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

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

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

The 4/10/06 permit modification discussed above specifies that the facility must comply with this annual notification statement to continue waived surveillance level testing. This permitting action is establishing the notification requirement in this permitting action as Special Condition L, *Statement for Reduced/Waived Toxics Testing*, pursuant to 06-096 CMR 530(2)(D)(4). An example certification statement is included as Fact Sheet **Attachment F**. This permit provides for reconsideration of testing requirements, including the imposition of certain testing, in consideration of the nature of the wastewater discharged, existing wastewater treatment, receiving water characteristics, and results of testing.

Priority Pollutants and Analytical Chemistry

On August 2, 2010, the Department conducted a statistical evaluation on the most recent 60 months of chemical specific test results on file with the Department for the permittee in accordance with the statistical approach outlined above. The results of the statistical evaluation were compared to 06-096 CMR 584 and the Ambient Water Quality Criteria (AWQC) specified in Appendix A. Based on the 8/2/10 statistical evaluation, the Department has determined the discharge does not exceed or demonstrate a reasonable potential to exceed the critical AWQC for any of the tested parameters, including total copper. See **Attachment G** of this fact sheet for a summary of chemical-specific test dates and specific test results.

Based on the provisions of 06-096 CMR 530, the reduced surveillance level priority pollutant and analytical chemistry testing authorized by the 4/10/06 permit amendment, and Department best professional judgment, this permitting action is waiving surveillance level analytical chemistry testing requirements (***Tier I***). This permitting action is establishing reduced

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

surveillance level analytical chemistry testing requirements (***Tier II***). 06-096 CMR 530 does not require surveillance level testing for priority pollutants (***Tier I*** or ***Tier II***).

This permitting action is carrying forward the 1/Year screening level priority pollutant testing requirement based on 06-096 CMR 530(2)(D)(1) (***Tier I*** and ***Tier II***). This permitting action is carrying forward the quarterly screening level analytical chemistry testing requirement per 06-096 CMR 530(2)(D). This permitting action is eliminating the total copper numerical limitations and testing requirements based on the evaluation described above.

A summary of the permittee's analytical chemistry and priority pollutant testing requirements is below:

Surveillance level testing – Beginning upon issuance of the permit (Tier I)/Beginning upon written approval by the Department (Tier II) and lasting through 12 months prior to permit expiration.

Operating Conditions	Priority pollutants	Analytical chemistry
Tier I	None	None
Tier II	None	1/2 year*

*1/2 year = One test every 2 years.

Screening level testing – Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, whichever is sooner.

Operating Conditions	Priority pollutants	Analytical chemistry
Tier I	1/Year	4/Year
Tier II	1/Year	4/Year

j. Mercury: August 11, 2000 – Pursuant to Maine law, 38 M.R.S.A. § 420, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 413, *Waste discharge licenses*, and 06-096 CMR 519, *Interim Effluent Limitations and Controls for the Discharge of Mercury* (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL # W00264-5L-B-R by establishing interim monthly average and daily maximum mercury effluent concentration limits of 19.3 parts per trillion (ppt) and 29.0 ppt, respectively, and a minimum monitoring frequency requirement of four (4) tests per year. It is noted the limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as limitations and monitoring frequencies are regulated separately through 38 M.R.S.A.§ 413 and 06-096 CMR 519. However, the interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of the Department's database for the period

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

June 2005 through the present indicates the permittee's mercury test results reported have ranged from 1.3 ppt to 8.0 ppt with an arithmetic mean (number of DMRs = 19) of 2.6 ppt.

k. Transported Wastes – The previous permitting action increased the permittee's daily volume of transported wastes received from 1,500 gpd to 2,000 as the permittee completed the upgrade of the aeration system.

The permittee is requesting the Department revise the daily quantity of transported wastes that it is authorized to receive and treat from 2,000 gpd to 3,500 gpd. *Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities*, 06-096 CMR 555 (effective March 9, 2009), limits the quantity of transported wastes received at a facility to 1% of the design capacity of the treatment facility if the facility utilizes a side stream or storage method of introduction into the influent flow, or 0.5% of the design capacity of the facility if the facility does not utilize the side stream or storage method of introduction into the influent flow. A facility may receive more than 1% of the design capacity on a case-by-case basis. The permittee utilizes the storage method (sludge digester) of introduction into the influent flow, thereby qualifying for the 1% of the design flow transported waste allowance. This permitting action is revising the allowed volume of transported wastes received and introduced from 2,000 gpd to 3,500 gpd (less than the allowed 3,700 gpd based upon specific request from the permittee) for ***Tier I*** operating conditions. This permitting action is increasing the volume of transported wastes received from 3,500 gpd to 4,500 gpd upon completion of the upgrade project (***Tier II***). With a design capacity of 0.90 MGD, 4,500 gpd represents 0.5% of said capacity and is being utilized instead of the maximum allowed (1% of design flow) due to the capacity of the sludge digester.

The Department has determined that under normal operating conditions, the receipt and introduction of 3,500 gpd of transported wastes ***(Tier I)*** to the facility and the receipt and introduction of 4,500 gpd of transported wastes ***(Tier II)*** to the facility will not cause or contribute to upset conditions of the treatment process.

9. ANTI-BACKSLIDING

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

This permitting action is establishing less stringent mass limitations for BOD5 and TSS in Tier II than in the previous permitting action based on upgrades resulting in an increase in the facility's monthly average design flow. The Department has made the determination that authorizing these

9. ANTI-BACKSLIDING (cont'd)

less stringent limitations will not cause or contribute to failure of the receiving water to meet its classification standards.

10. ANTI-DEGREDATION - IMPACT ON RECEIVING WATER QUALITY

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

Tier II of this permitting action revises previously established mass effluent limitations for BOD5 and TSS. The rationale for these actions is contained in Section 8 of this Fact Sheet. Based on the information provided in the referenced section, the Department has made the determination that the discharge approved by this permit will not result in a significant lowering of water quality. As permitted, the Department has determined the existing and designated water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the Machias River to meet standards for Class SB classification.

11. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

The Department acknowledges that the elimination of the two (2) remaining CSOs in the collection system is a costly, long-term project. As the Machias WWTF and the sewer collection system is upgraded and maintained according to the *CSO Master Plan and Nine Minimum Controls*, there should be reductions in the frequencies and volumes of CSO activities and, over time, improvement in the quality of the wastewater discharged to the receiving waters. The Department acknowledges that the shellfish resource at Machias is of very high value and significant resources have been spent to abate the permittee's CSOs. The permittee has completed significant improvements in an effort to reduce CSO events and allow maximum throughput at the wastewater treatment facility. Therefore, in order not to penalize the permittee for treating peak flows, this permitting action is establishing Department BPJ-based "Report Only" BOD5 and TSS weekly average mass limitations during those times when the total daily influent flow exceeds 1.25 MGD.

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

12. PUBLIC COMMENTS

Public notice of this application was made in the *Machias Valley Observer* on or about June 7, 2010. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

13. DEPARTMENT CONTACTS

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

Phyllis A. Rand
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7658 Fax: (207) 287-3435
e-mail: phyllis.a.rand@maine.gov

14. RESPONSE TO COMMENTS

During the period of October 27, 2010, through the issuance date of the permit/license, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to the permittee for the proposed discharges. The Department received three (3) comments on the draft permit from the permittee in a letter to the Department dated November 22, 2010. The comments and Department responses are as follow:

Comment #1: Special Conditions – Effluent Conditions and Monitoring Requirements (page 6 of 24). The Tier II limitations are still of significant concern to the Town of Machias. Based on the proposed draft, the Department has not agreed to adjust the weekly average loading for BOD or TSS to reflect the higher peak hourly wet weather flows that will be received by the facility following the upgrade. The weekly average loadings have only been increased from 139 lbs to 338 lbs based on the average flow increase from 0.37 MGD to 0.90 MGD. In or September 22, 2010 comments regarding the preliminary draft permit, we requested that the DEP consider the loadings for BOD and TSS be "Report Only" on peak wet weather flow days to reflect the new upgrade which would allow up to 3.25 MGD to enter the facility. This requirement would only involve days where the daily flow exceeded 1.25 MGD (previous peak hourly loading through the facility). We requested that the permit be modified to provide the Town the ability to treat loadings up to the new flow rates agreed to by the DEP as part of the upgraded facility design. The plant is only required to test once each week for BOD and TSS so the daily maximum value would be equal to the weekly average. The DEP permitted "Report Only" for the monthly maximum value.

With the new Peak Flow upgrade, the plant will be treating flows that otherwise would reach the receiving water untreated through the CSO. These increased flows will now receive proper treatment which will improve the condition of the receiving waters. The Town and funding

14. RESPONSE TO COMMENTS (cont'd)

agencies have expended millions of dollars in improving the collection system to reduce CSO events to the Machias Bay. The Town of Machias has followed the requirements of the Department approved CSO Master Plan and reduced flows within its municipal system to a point where a decision was made to treat the remaining peak flows at the WWTP. (There may still be excess flows in the University system. In addition, modeling of sewer systems peak flows is not an exact science.) The facility cannot accept that the new Peak Flow Upgrade could still result in exceedences of its permit. The Department has indicated that allowing Machias to have "Report Only" for [weekly mass] average results is precedent setting. The DEP must consider precedent setting decisions for plants that are at the end of their Master Plans when significant improvements and effort have been made to reduce CSO events. Machias should not be expected to accept a permit where non-compliance is still pending for its weekly average loading limits for TSS or BOD as a result of its CSO reduction efforts.

Again, the Town is requesting that the weekly average be revised to "Report Only" on high flow events that exceed the current 1.25 MGD design loading rate for the facility. This is only requested on days when the flow exceeds 1.25 MGD. All other days shall be expected to be limited as the DEP has indicated in the proposed permit. The proposed flow mass loadings are again presented in Table 1:

TABLE 1: PROPOSED HIGH FLOW MASS LOADINGS

	MONTHLY AVERAGE	**WEEKLY AVERAGE**	**DAILY MAXIMUM**	**MONTHLY AVERAGE**	**WEEKLY AVERAGE**	**DAILY MAXIMUM**
BOD_5/TSS FLOW >1.25 MGD	225 lbs/day	"Report" lbs/day	"Report" lbs/day	30 mg/l	45 mg/l	50 mg/l
BOD_5/TSS FLOW≤ 1.25 MGD	225 lbs/day	338 lbs/day	"Report" lbs/day	30 mg/l	45 mg/l	50 mg/l

Response #1: The Department concurs that the establishing "Report Only" weekly average mass limitations for the permittee when total daily influent flows exceed 1.25 MGD will allow the permittee to maximize throughput and treatment of wastewater flows that would otherwise be discharged through the CSOs and into Machias Bay, which is a significant shellfish resource for the State of Maine.

Comment #2: Special Conditions – Disposal of Wastes in Wastewater Treatment Facility (page 17 of 24). The permit again provides that the Town is only allowed to receive up to a daily maximum of 2,000 gallons per day (GPD) of septage in the Tier I (present flow conditions prior to upgrade). The Town understands that the DEP's Chapter 555 only permits 0.05 percent [5%]of the design capacity that does not receive "Side Stream Treatment." "Side Stream Treatment" is when septage is treated in a digester or other unit processes, versus adding it directly to the treatment plant headworks. The Town is requesting that all septage added to the facility in excess of 2,000 GPD be

14. RESPONSE TO COMMENTS (cont'd)

treated in its digester, thus "Side Stream Treatment" applies to a maximum of 3,500 GPD prior to Tier II.

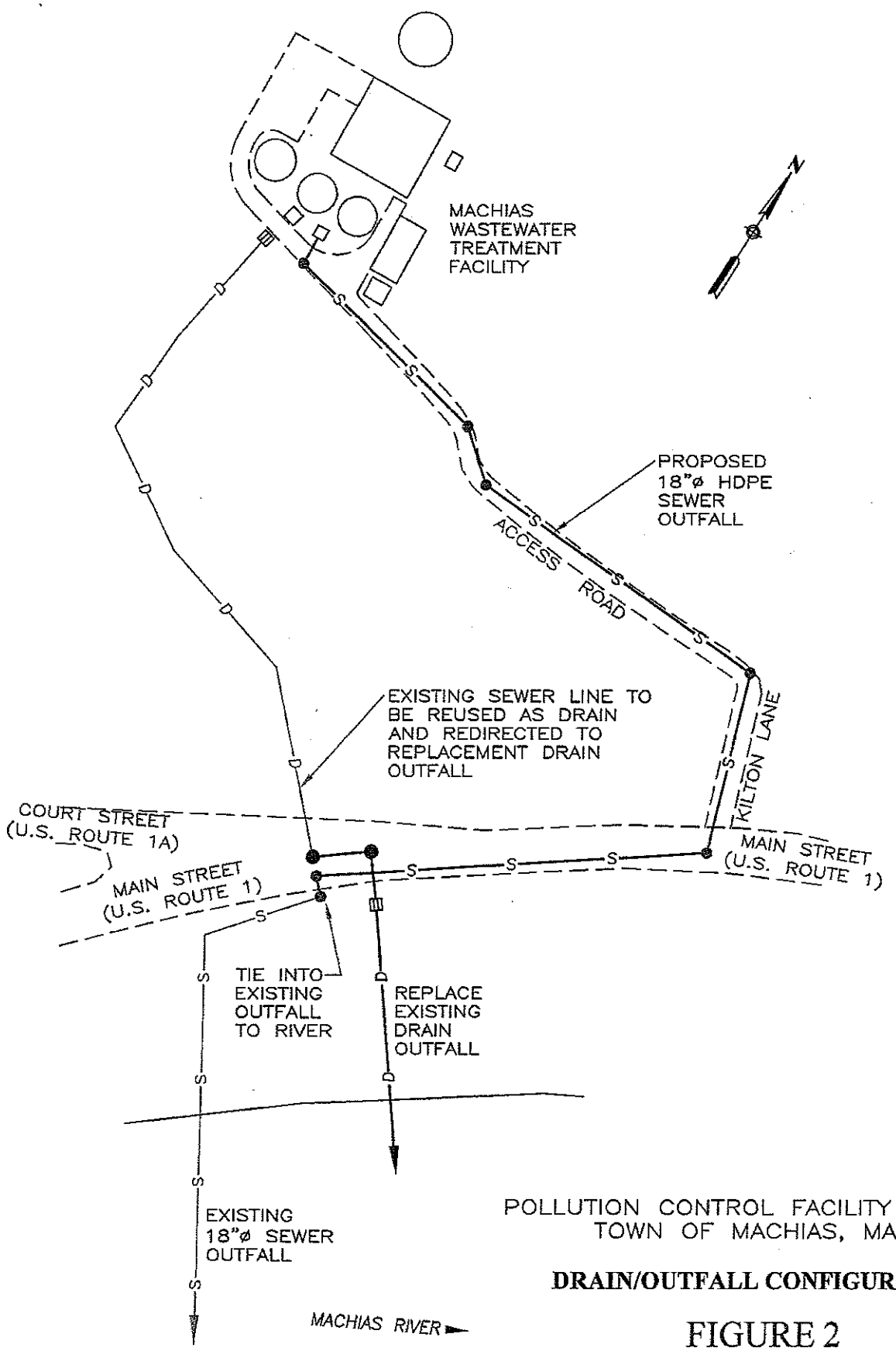
Response #2: *Standards for the Addition of Transported Wastes to Wastewater Treatment Facilities*, 06-096 CMR 555 (3)(E), defines "Side stream treatment or storage" as, "…structures to which transported wastes are added that avoid their direct addition to the influent flow at a wastewater treatment facility. These processes include, but are not limited to, transported waste storage tanks, chemical conditioning, solids dewatering systems or sludge storage tanks.

Transported wastes placed in these locations may subsequently be added to the influent flow at controlled rates." 06-096 CMR 555 (7)(B)(2) states that, "Where the facility does utilize side stream treatment or storage for at least half of the transported waste, the daily maximum volume received may not exceed 1.0% of the design capacity." The permittee proposes to utilize the sludge digester for the storage of transported wastes, thereby qualifying for the 3,700 GPD (1% of *Tier I* design flow of 0.37 MGD) maximum allowance; however, the permittee is requesting an allowance of 3,500 GPD of transported wastes. Further discussion with the permittee on 12/01/10 indicates the permittee has the capacity to store at least half of the 3,500 GPD of transported wastes in the sludge digester, therefore, the Department is granting the permittee's request to increase the allowed volume of transported wastes from 2,000 GPD to 3,500 GPD.

Comment #3: Conditions for Combined Sewer Overflows [Special Condition J(4)] (Page 20 of 24). The date of April, 2011 is no longer applicable due to funding issues which delayed the commencement date of the Contract. The Peak Flow Upgrade project will not be substantially completed until March 1, 2011 due to an expected winter construction shutdown. The existing contract specifies a completion date of November 18, 2011. However, we are in the process of approving a requested winter shutdown due to the late start date of this project and the substantial work scheduled for outside. We are requesting that you amend the substantial completion date to March 1, 2011 in the permit.

Reply #3: The permittee clarified, during a telephone conversation with the Department on 12/01/10, that the substantial completion date requested is March 1, **2012**. The Department is granting the substantial date of completion as March 1, 2012.

ATTACHMENT A



POLLUTION CONTROL FACILITY UPGRADE
TOWN OF MACHIAS, MAINE

DRAIN/OUTFALL CONFIGURATION

FIGURE 2

OLVER ASSOCIATES INC.
ENVIRONMENTAL ENGINEERS
290 MAIN STREET WINTERPORT, MAINE

ATTACHMENT B

ATTACHMENT NO. 1

TOWN OF MACHIAS

WASTEWATER TREATMENT OPERATIONS AND UPGRADE SUMMARY AND SCHEMATICS

The Town of Machias owns and operates a sewerage collection system and wastewater treatment plant to service the Town. The sewer system is a complex, seven-mile network which collects raw wastewater throughout the Town's 400 acre sewered area to serve about 608 users, which are a mixture of residential and commercial customers. The plant was constructed in 1972, off of Route 1, with the outfall discharging into the Machias River. At the same time the plant was built, interceptor sewers were constructed to collect wastewater from old sewer lines already present and to route the flow to the treatment plant.

The current wastewater treatment plant has a sustained design capacity of 0.37 MGD average daily flow. For brief periods, the plant is designed to accept peak hourly flows of up to 1.25 MGD. The plant also has a design capacity to treat up to 2000 lbs/day of organic pollutant loading. Wet weather peak flows in the sewerage collection system periodically exceed the 1.25 MGD design capacity of the treatment plant. When this occurs, the plant's operations staff allows as much water as can physically enter the plant to flow into the facility. The maximum hydraulic flow that can enter the plant is about 2.0 MGD. When this flow level is reached, peak flows begin to back up in the interceptor sewer system and surcharge the sewer's manholes. These hydraulic overloading conditions are associated with wet weather precipitation events and are the result of excess stormwater entering the sewer system. Because peak flows in the sewer system under surcharged conditions can create instantaneous flow peaks of between 9.0 and 10.0 MGD per inch/hour of rainfall intensity, two relief points were added to the sewer system in 1972 to allow excess flows to be bypassed. These relief points, referred to as combined sewer overflows (CSO), discharge raw sewage to the Machias River during peak wet weather events. One CSO is located at the treatment plant and another on the south side of the Machias River off Elm Street.

The Town is a CSO community with two active CSO points in the sewerage system. Since a CSO Master Plan was issued in 2000, the Town has made major efforts to reduce excess flows in the system. During the last seven years, over 13,000 LF of sewer has been replaced. This effort has resulted in a 51 percent decrease in average daily flows to the plant. Groundwater infiltration has been reduced by 78 percent and stormwater inflow has been reduced by 43 percent on an annual basis. The overall volume of lost CSO volume has been dramatically reduced. However, the wastewater treatment facility still experiences high peak flow loadings above the design capacity of the plant. The approach recommended in the 2000 CSO Master Plan was to remove excess flows upstream in the sewer system as well as to conduct a limited upgrade of the wastewater treatment plant to enhance its peak flow hydraulic capacity.

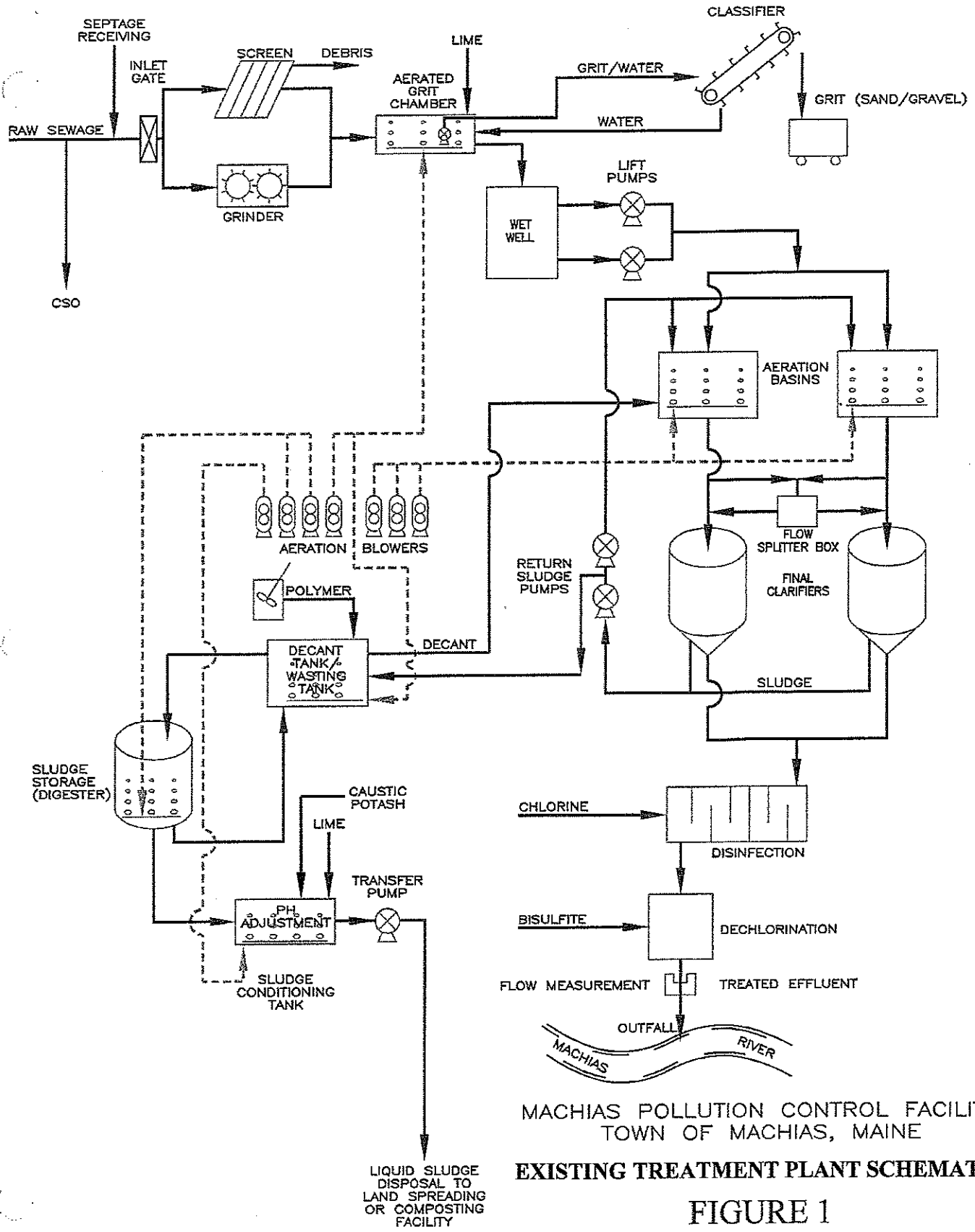
The Machias Pollution Control Facility's hydraulic capacity remains a critical component of the Town's CSO control strategy. Past CSO events have occurred, in part, because peak flows could not be pumped into the plant by the influent pumps or because high tidal events during wet weather periods prevent water from being discharged from the plant through its submerged outfall. In addition, undersized unit processes at the plant have limited the peak flow that can be properly treated at the plant. At this time, there are many upgrade needs at the plant to meet the objectives of the CSO Master Plan. The proposed Peak Flow Upgrade project will improve many of the plant's components. The key components of the upgrade are described below and are shown on the proposed Process Flow Diagram (Sheet G-4) and proposed Site Plan (Sheet C-2). The proposed Outfall Sewer Plan (Sheet C-3) is also enclosed as requested.

Figure 1 shows a schematic presentation of the current treatment plant's unit process. All of the Town's wastewater enters the plant through a headworks area. The current plant headworks includes a CSO bypass gate, communitor, bypass bar rack, aerated grit chamber, grit removal pump and a cyclone classifier along with two influent pumps. This communitor currently is undersized and will be replaced with a new high speed channel grinder sized for peak flows. The existing aerated grit chamber currently meets peak flow capacity and does not require an upgrade at this time.

The plant's two influent pumps lift raw wastewater from a wet well downstream of the grinder channel and grit chamber. Influent is lifted up to the treatment process reactors on the facility's operations floor. These two pumps have experienced ongoing mechanical failures and are undersized to meet peak flows to the plant. These pumps will be replaced with two new, properly sized pumps with variable speed control.

Flow is pumped from the influent wet well to the aeration basins. The aeration tanks have a volume of 0.155 MGD each. The aeration system was upgraded in 2006 with new fine bubble diffused aeration and new blowers to meet pollutant loadings of 2000 lbs/day of both Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS). This system is adequate for foreseeable future flows to the plant. Following aeration, the wastewater flows through a splitter box to final clarification.

There are two 32' Ø final clarifiers at the plant with a capacity of 0.072 MG each. These play an important role in the overall treatment process by allowing the microbes grown in the aeration basins to settle out of the water, leaving clean effluent behind. These two clarifiers are undersized for peak flows and prone to solids washout. During the upgrade, a third, 34' Ø clarifier will be added to provide sufficient surface area in conjunction with the existing two clarifiers to treat peak flows. The settled sludge from both of these clarifiers is either returned to the process as activated sludge or pumped to a thickening tank. From the thickening tank, the sludge is transferred to the plant's digester. The digester has a capacity of 0.15 million gallons.



MACHIAS POLLUTION CONTROL FACILITY
TOWN OF MACHIAS, MAINE

EXISTING TREATMENT PLANT SCHEMATIC

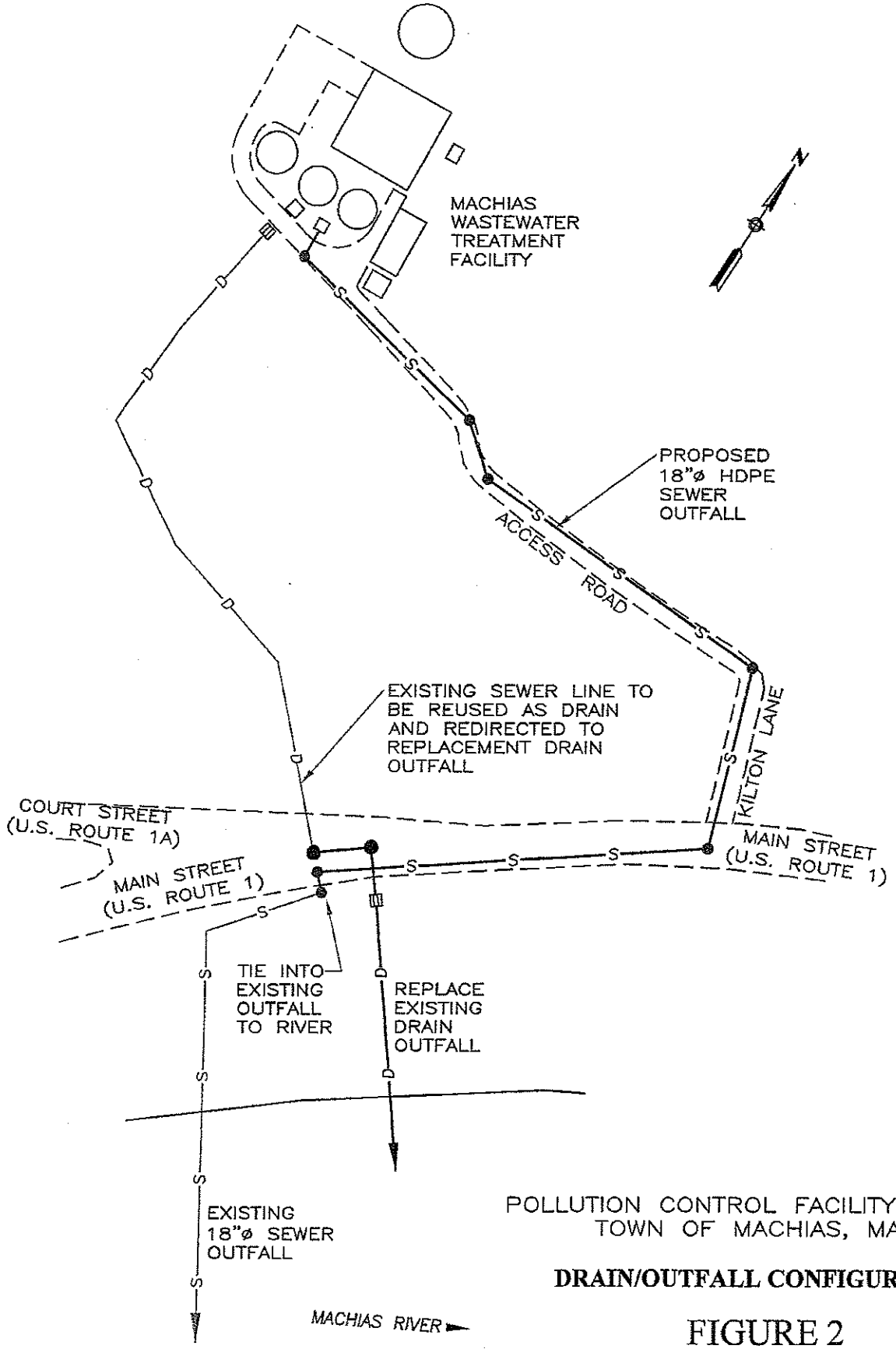
FIGURE 1

OLVER ASSOCIATES INC.
ENVIRONMENTAL ENGINEERS
290 MAIN STREET WINTERPORT, MAINE

Effluent from the Machias treatment plant is disinfected with chlorine prior to discharge into the Machias River. This occurs in a concrete contact chamber below the floor of the operations building. The existing chamber is 10,000 gallons. This tank does not provide enough detention time required for proper disinfection of either average or peak flows. Its location below the floor makes it difficult to access for cleaning. A new chlorine contact tank will be provided adjacent to the existing to provide sufficient disinfection volume. The plant's effluent flow meter will be upgraded at the same time to measure higher future flows.

The plant's effluent outfall was installed in 1972 along with the plant. The design at the time did not take into consideration the tidal influence of the Machias River. The outfall also is intended to take effluent flow, CSO flow and stormwater flow from the area, through this single pipe, and discharge into the River. It is undersized and prone to backing up into the chlorine contact tank and contributing to excess CSO volume loss. To overcome the tide at peak flow conditions, an effluent siphon structure will be constructed along with a separate 18"Ø HDPE outfall as shown on Figure 2. The Peak Flow Upgrade will also include a CSO pump station with a daily maximum design flow of 3.95 MGD and 5.50 MGD peak flow rate. These structures are necessary to overcome the effects of the tide over the submerged outfall pipe.

The Peak Flow Upgrade project is expected to be constructed during 2010 and 2011.



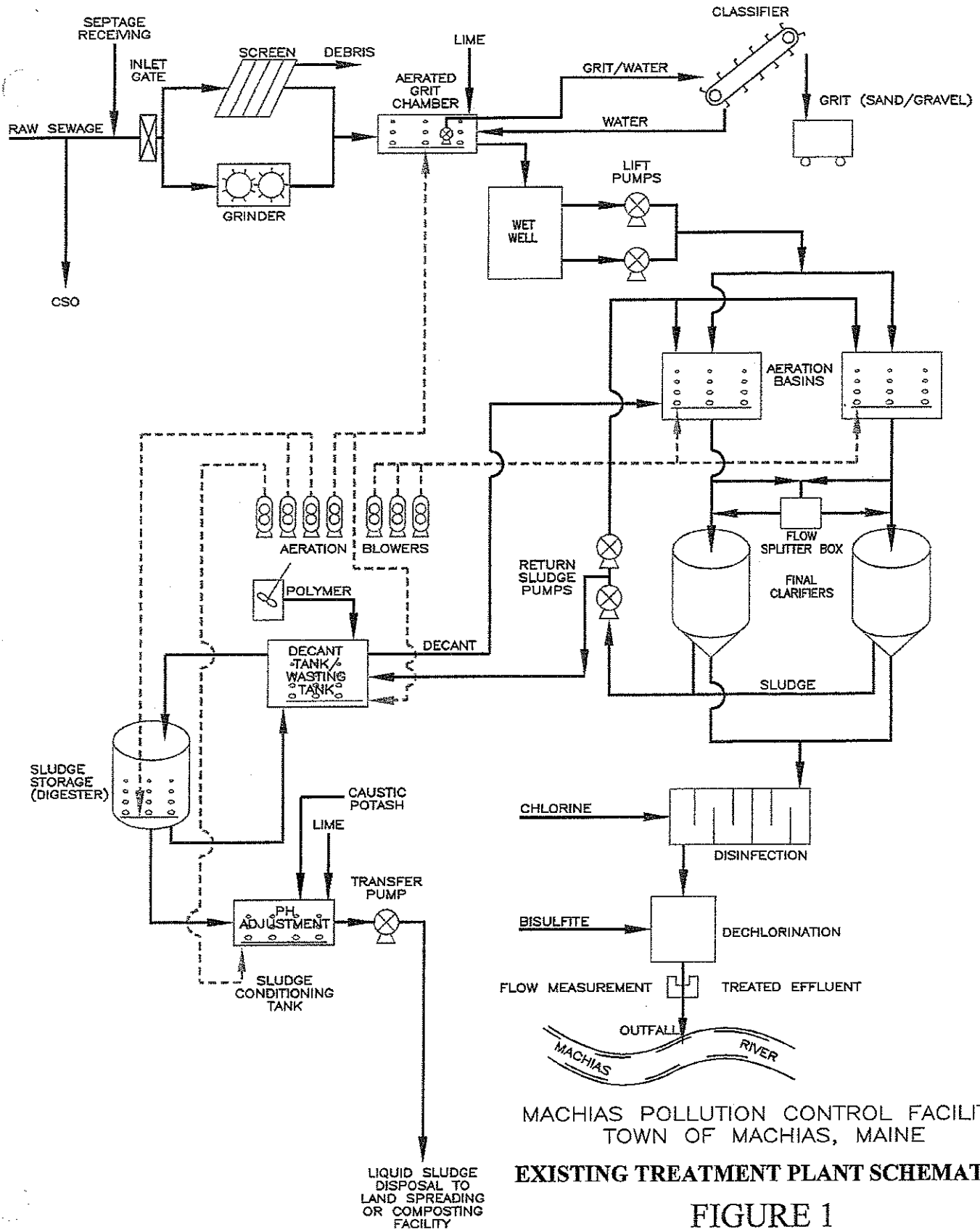
POLLUTION CONTROL FACILITY UPGRADE
TOWN OF MACHIAS, MAINE

DRAIN/OUTFALL CONFIGURATION

FIGURE 2

OLVER ASSOCIATES INC.
ENVIRONMENTAL ENGINEERS
290 MAIN STREET WINTERPORT, MAINE

ATTACHMENT C



MACHIAS POLLUTION CONTROL FACILITY
TOWN OF MACHIAS, MAINE

EXISTING TREATMENT PLANT SCHEMATIC

FIGURE 1

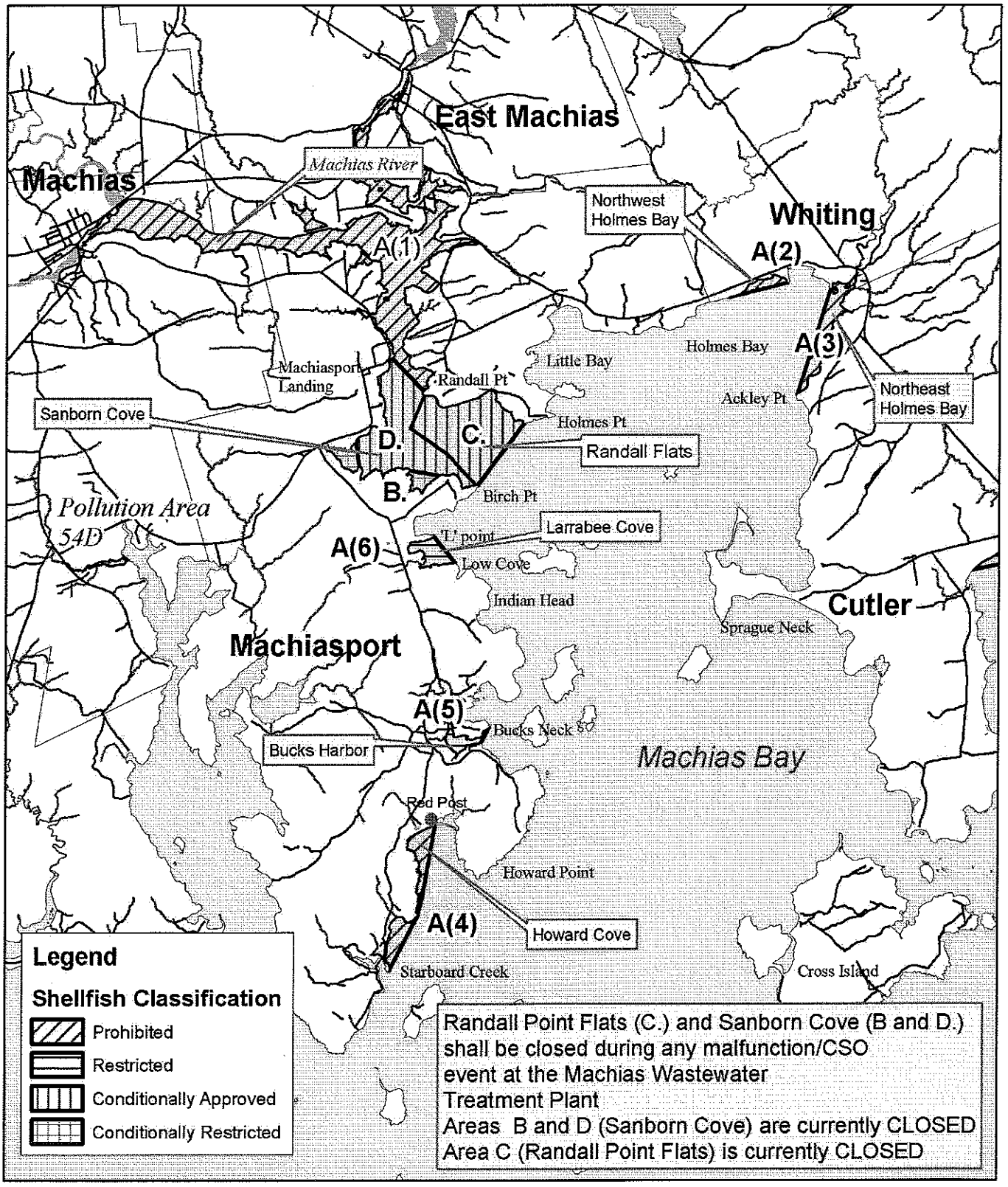
OLVER ASSOCIATES INC.
ENVIRONMENTAL ENGINEERS
290 MAIN STREET WINTERPORT, MAINE

ATTACHMENT D

Maine Department of Marine Resources

Pollution Area No. 55

Machias and East Machias Rivers and Machias Bay
(Machias, East Machias, Machiasport, Whiting, Cutler) September 8, 2010
All existing bacterial and red tide/PSP closures in this area remain in effect.



ATTACHMENT E

FACILITY WET EVALUATION REPORT

Facility: MACHIAS **Permit Number:** ME0100323 **Report Date:** 8/2/2010

Receiving Water: MACHIAS RIVER **Rapidmix:** ?

Dilution Factors: 1/4 Acute: ~~12.880~~ 12.9 Acute: 48.520 Chronic: ~~105.8236~~ 105.8

Effluent Limits: Acute (%): ~~8.244~~ 7.8 Chronic (%): 0.945 **Date range for Evaluation: From** 02/Aug/2005 **To:** 02/Aug/2010

Test Type: A_NOEL

Test Species: MYSID SHRIMP

Test Date	Result (%)	Status
03/09/2009	~~43.800~~ 7.8	RP

Species Summary:

Test Number: 1 **RP:** 6.200 **Min Result (%):** 43.800 **RP factor (%):** ~~7.065~~ 1.258 **Status:** RP

Test Type: C_NOEL

Test Species: SEA URCHIN

Test Date	Result (%)	Status
03/09/2009	~~7.800~~ 43.8	OK

Species Summary:

Test Number: 1 **RP:** 6.200 **Min Result (%):** 7.800 **RP factor (%):** ~~1.258~~ 7.065 **Status:** OK

ATTACHMENT F

CHAPTER 530.2(D)(4) CERTIFICATION

MEPDES# _____ Facility Name _____

Since the effective date of your permit have there been:	NO	YES (Describe in Comments)
1. changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may **increase** the toxicity of the discharge?		
2. changes in the operation of the treatment works that may **increase** the toxicity of the discharge?		
3. changes in industrial manufacturing processes contributing wastewater to the treatment works that may **increase** the toxicity of the discharge?		

COMMENTS:

Name(print) _____

Signature _____ Date _____

This document must be signed by the permittee or their legal representative.

This form may be used to meet the requirements of Chap 530.2(D)(4). This Chapter requires all dischargers having waived or reduced Toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative the discharger may submit a signed letter containing the same information.

ATTACHMENT G

CHEMICAL EVALUATION REPORT (INDIVIDUAL)

8/2/2010

Report ID: 298 **Data Date Range:** 02/Aug/2005 - 02/Aug/2010

Facility: **MACHIAS** Permit Number: **ME0100323**

Receiving Water: **MACHIAS RIVER** Fresh or Salt: **S** Complete Mix: **?**

Dilution Factors: Acute: **48.5** Chronic: **105.8** Health: **315.5** Licensed Flow: **0.4**

Water Quality Assumptions: Reserve (%): **15.0** Background (%): **10.0** Temperature: **25.0**

Hardness: **20.0** PH: **7.0** Salinity: **20.0**

Specific pollutants with reasonable potential: Number of parameters found = 6

Pollutant: **ALUMINUM** Reporting Limit: **0.0** Sample Number: **5**

Coefficient of Variation: **0.6** Reasonable Potential Factor: **2.6**

Historical Average: **N/A** RP Historical Average: **N/A**

Facility Allocation:	Acute	Chronic	Health
Pounds per day	N/A	N/A	N/A
Exceedence ug/L	---	---	---
RP ug/L	---	---	---

***** INDIVIDUAL RESULTS *****

					Exceedence or Reasonable Potential and Basis		
Flag	**Daily Flow**	**Date**	**Concentration**	**Mass**	**Acute**	**Chronic**	**Health**
IN	0.3800	03/28/2004	99	0.31375	---	---	---
IN	0.2200	03/09/2009	80	0.14678	---	---	---
IN	0.1120	06/16/2009	86	0.08033	---	---	---
IN	0.1390	07/29/2009	230	0.26663	---	---	---
IN	0.2170	12/02/2009	45	0.08144	---	---	---

Pollutant: **AMMONIA** Reporting Limit: **0.0** Sample Number: **5**

Coefficient of Variation: **0.6** Reasonable Potential Factor: **2.6**

Historical Average: **N/A** RP Historical Average: **N/A**

Facility Allocation:	Acute	Chronic	Health
Pounds per day	N/A	N/A	N/A
Exceedence ug/L	---	---	---
RP ug/L	---	---	---

***** INDIVIDUAL RESULTS *****

					Exceedence or Reasonable Potential and Basis		
Flag	**Daily Flow**	**Date**	**Concentration**	**Mass**	**Acute**	**Chronic**	**Health**
IN	0.3800	03/28/2004	<2000	---	---	---	---
IN	0.2200	03/09/2009	<500	---	---	---	---
IN	0.1120	06/16/2009	<720	---	---	---	---
IN	0.1390	07/29/2009	1700	1.97074	---	---	---
IN	0.2170	12/02/2009	<720	---	---	---	---

Pollutant: **COPPER** Reporting Limit: **3.0** Sample Number: **24**

Coefficient of Variation: **0.4** Reasonable Potential Factor: **1.2**

Historical Average: **N/A** RP Historical Average: **N/A**

Facility Allocation:	Acute	Chronic	Health
Pounds per day	N/A	N/A	N/A
Exceedence ug/L	---	---	---
RP ug/L	---	---	---

******* INDIVIDUAL RESULTS *******

					Exceedence or Reasonable Potential and Basis		
Flag	**Daily Flow**	**Date**	**Concentration**	**Mass**	**Acute**	**Chronic**	**Health**
IN	0.3800	03/28/2004	22.1	0.07004	---	---	---
IN	0.3700	06/30/2005	20	0.06172	---	---	---
IN	0.2930	09/07/2005	43	0.10508	---	---	---
IN	0.3700	09/30/2005	43	0.13269	---	---	---
IN	0.3700	12/31/2005	40	0.12343	---	---	---
IN	0.3700	03/31/2006	26	0.08023	---	---	---
IN	0.3700	06/30/2006	33	0.10183	---	---	---
IN	0.3700	09/30/2006	21	0.0648	---	---	---
IN	0.3700	12/31/2006	23	0.07097	---	---	---
IN	0.3700	03/31/2007	31	0.09566	---	---	---
IN	0.3700	06/01/2007	34	0.10492	---	---	---
IN	0.3700	09/30/2007	43	0.13269	---	---	---
IN	0.3700	12/31/2007	37	0.11417	---	---	---
IN	0.3700	03/31/2008	7	0.0216	---	---	---
IN	0.3700	06/30/2008	40	0.12343	---	---	---
IN	0.3700	09/30/2008	24	0.07406	---	---	---
IN	0.3700	12/31/2008	13	0.04012	---	---	---
IN	0.2200	03/09/2009	15	0.02752	---	---	---
IN	0.3700	03/31/2009	16	0.04937	---	---	---
IN	0.1120	06/16/2009	21	0.01962	---	---	---
IN	0.1390	07/29/2009	25	0.02898	---	---	---
IN	0.3700	09/30/2009	25	0.07714	---	---	---
IN	0.2170	12/02/2009	16	0.02896	---	---	---
IN	0.3700	12/31/2009	16	0.04937	---	---	---

Pollutant: **CYANIDE** Reporting Limit: **5.0** Sample Number: **5**

Coefficient of Variation: **0.6** Reasonable Potential Factor: **2.6**

Historical Average: **N/A** RP Historical Average: **N/A**

Facility Allocation:	Acute	Chronic	Health
Pounds per day	N/A	N/A	N/A
Exceedence ug/L	---	---	---
RP ug/L	---	---	---

******* INDIVIDUAL RESULTS *******

					Exceedence or Reasonable Potential and Basis		
Flag	**Daily Flow**	**Date**	**Concentration**	**Mass**	**Acute**	**Chronic**	**Health**
IN	0.3800	03/28/2004	<2	---	---	---	---
IN	0.2200	03/09/2009	6	0.01101	---	---	---

IN	0.1120	06/16/2009	10	0.00934	---	---	---
IN	0.1390	07/29/2009	<10	---	---	---	---
IN	0.2170	12/02/2009	<10	---	---	---	---

Pollutant: **SILVER** Reporting Limit: **1.0** Sample Number: **5**

Coefficient of Variation: **0.6** Reasonable Potential Factor: **2.6**

Historical Average: **N/A** RP Historical Average: **N/A**

Facility Allocation:	Acute	Chronic	Health
Pounds per day	N/A	N/A	N/A
Exceedence ug/L	---	---	---
RP ug/L	---	---	---

******* INDIVIDUAL RESULTS *******

					Exceedence or Reasonable Potential and Basis		
Flag	**Daily Flow**	**Date**	**Concentration**	**Mass**	**Acute**	**Chronic**	**Health**
IN	0.3800	03/28/2004	<.5	---	---	---	---
IN	0.2200	03/09/2009	<1	---	---	---	---
IN	0.1120	06/16/2009	<1	---	---	---	---
IN	0.1390	07/29/2009	1.4	0.00162	---	---	---
IN	0.2170	12/02/2009	<1	---	---	---	---

Pollutant: **ZINC** Reporting Limit: **5.0** Sample Number: **5**

Coefficient of Variation: **0.6** Reasonable Potential Factor: **2.6**

Historical Average: **N/A** RP Historical Average: **N/A**

Facility Allocation:	Acute	Chronic	Health
Pounds per day	N/A	N/A	N/A
Exceedence ug/L	---	---	---
RP ug/L	---	---	---

******* INDIVIDUAL RESULTS *******

					Exceedence or Reasonable Potential and Basis		
Flag	**Daily Flow**	**Date**	**Concentration**	**Mass**	**Acute**	**Chronic**	**Health**
IN	0.3800	03/28/2004	47	0.14895	---	---	---
IN	0.2200	03/09/2009	50	0.09174	---	---	---
IN	0.1120	06/16/2009	37	0.03456	---	---	---
IN	0.1390	07/29/2009	58	0.06724	---	---	---
IN	0.2170	12/02/2009	45	0.08144	---	---	---

MERCURY REPORT - Clean Test Only

Data Date Range: 02/Aug/2005 - 02/Aug/2010

Facility: MACHIAS **Permit Number:** ME0100323

Max (ug/l): 0.0140 **Average (ug/l):** 0.0031

Sample Date	Result (ug/l)	Lsthan	Clean
09/17/2005	0.008000	N	T
12/20/2005	0.001600	N	T
03/29/2006	0.001500	N	T
05/30/2006	0.002000	N	T
07/11/2006	0.002900	N	T
12/19/2006	0.001800	N	T
02/14/2007	0.002400	N	T
06/05/2007	0.001500	N	T
09/19/2007	0.002100	N	T
12/27/2007	0.001900	N	T
03/26/2008	0.001300	N	T
06/11/2008	0.005500	N	T
09/17/2008	0.002600	N	T
12/03/2008	0.001400	N	T
03/31/2009	0.002500	N	T
06/24/2009	0.002900	N	T
07/22/2009	0.003300	N	T
12/02/2009	0.001300	N	T
02/24/2010	0.001600	N	T

PRIORITY POLLUTANT DATA SUMMARY

Date Range: **02/Aug/2005 - 02/Aug/2010 period**

Facility Name: **MACHIAS** NPDES: **ME0100323**

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
09/07/2005	0.37	0.29	1	1	0	0	0	0	0	F	0
09/30/2005	NR	NR	1	1	0	0	0	0	0	F	0
12/31/2005	NR	NR	1	1	0	0	0	0	0	F	0
03/31/2006	NR	NR	1	1	0	0	0	0	0	F	0
06/30/2006	NR	NR	1	1	0	0	0	0	0	F	0
09/30/2006	NR	NR	1	1	0	0	0	0	0	F	0
12/31/2006	NR	NR	1	1	0	0	0	0	0	F	0
03/31/2007	NR	NR	1	1	0	0	0	0	0	F	0
06/01/2007	NR	NR	1	1	0	0	0	0	0	F	0
09/30/2007	NR	NR	1	1	0	0	0	0	0	F	0
12/31/2007	NR	NR	1	1	0	0	0	0	0	F	0
03/31/2008	NR	NR	1	1	0	0	0	0	0	F	0
06/30/2008	NR	NR	1	1	0	0	0	0	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
09/30/2008	NR	NR	1	1	0	0	0	0	0	F	0
12/31/2008	NR	NR	1	1	0	0	0	0	0	F	0
03/09/2009	0.32	0.22	130	13	28	46	25	7	11	F	0
03/31/2009	NR	NR	1	1	0	0	0	0	0	F	0
04/10/2009	0.20	0.36	29	0	26	3	0	0	0	F	0
06/16/2009	0.26	0.11	13	10	0	0	0	3	0	F	0
07/29/2009	0.20	0.14	12	9	0	0	0	3	0	F	0
09/30/2009	NR	NR	1	1	0	0	0	0	0	F	0
12/02/2009	0.25	0.22	12	9	0	0	0	3	0	F	0
12/31/2009	NR	NR	1	1	0	0	0	0	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

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.