STATE OF MAINE

Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

October 5, 2011

Mr. John Cronin
Town of Canton Pollution Abatement Facility
P.O Box 669
Canton, ME. 04221

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102067
Maine Waste Discharge License (WDL) Application #W006445-6C-I-R
Final Permit/License

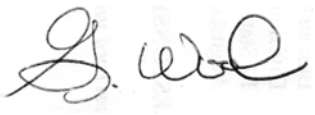
Dear Mr. Cronin:

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

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

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

Sincerely,



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

Enc.

cc: Beth DeHaas, DEP/CMRO
Sandy Mojica, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF CANTON		)	MAINE POLLUTANT DISCHARGE
POLLUTION ABATEMENT FACILITY		)	ELIMINATION SYSTEM PERMIT
CANTON, OXFORD COUNTY, MAINE		)	AND
ME0102067		)	WASTE DISCHARGE LICENSE
W006445-6C-I-R	**APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, *et. seq*. and *Conditions of Licenses*, 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 CANTON (Town/permittee hereinafter) with its supportive data, agency review comments, and other related material on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The Town has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102067/ Maine Waste Discharge License (WDL)#W006445-5L-F-R, (permit hereinafter) which was issued by the Department on February 22, 2006, and expired on February 22, 2011. The MEPDES permit/WDL approved the discharge of up to a daily maximum flow of 0.621 million gallons per day (MGD) of secondary treated waste water from a publicly owned treatment works (POTW) facility to Whitney Brook, Class B, in Canton, Maine. It is noted the February 22, 2006, permit was subsequently modified on September 4, 2008, to eliminate a prohibition on discharging when Whitney Brook was <10 cfs.

MODIFICATIONS REQUESTED

The permittee has requested the following modifications be incorporated into this permitting action:

1. Reduce ground water monitoring to 1/5 Years given test results to date indicate there has never been an adverse impact to ground water from the lagoons.

MODIFICATIONS REQUESTED (cont'd)

2. Modify the concentration limits for biochemical oxygen demand (BOD) and total suspended solids (TSS) from secondary best practicable treatment (BPT) standards (30 mg/L monthly average, 45 mg/L weekly average and 50 mg/L daily maximum) to equivalent to secondary treatment (45 mg/L monthly average and 65 mg/L weekly average) pursuant to Department rule 06-096 CMR, Chapter 525, *Effluent Guidelines and Standards,* Section 3, *Secondary Treatment,* §VI, *Treatment equivalent to secondary treatment*.

3. Decrease the monitoring frequency for whole effluent toxicity (WET), analytical chemistry and priority pollutant over the five-year term of the permit. Currently, the permittee is required to conduct 3 WET tests, 3 analytical chemistry tests and 1 priority pollutant test over the five-year term of the permit. The permittee is requesting the Department reduce testing to 1 WET test, 1 analytical chemistry test and 1 priority pollutant test over the five-year term of the permit.

4. Modify Attachment B of the permit entitled, *Table A, Town of Canton Waste Water Treatment Facility, Effluent Flow and Corresponding Proposed Discharge Limitations*, by requiring a minimum dilution factor of 100:1 (up from 53:1 in the previous permit) when discharging to reduce WET, analytical chemistry and priority pollutant over the five-year term of the permit.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the previous permitting action except that this permit is;

1. Reducing the ground water monitoring frequency from 1/Year to 1/5 Years.

2. Reducing the monitoring frequency to 1 WET test, 1 analytical chemistry tests and 1 priority pollutant test over the five-year term of the permit.

3. Establishing a daily maximum technology based concentration limitations for total residual chlorine (TRC) in the event the permittee needs to disinfect the discharge to meet *E. coli* bacteria limitations.

4. Modifying Attachment B of the permit entitled, Table A, Town of Canton Waste Water Treatment Facility, Effluent Flow and Corresponding Proposed Discharge Limitations, by requiring a minimum dilution factor of 100:1 (up from 53:1 in the previous permit) when discharging.

The Department is denying the permittee's request to increase the concentration limits for BOD and TSS as test results submitted to the Department for the previous 40 months do not support the request. See section 7(c) of the Fact Sheet of this permit for a more in-depth discussion on this matter.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 23, 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 natural resource, that water quality will be maintained and protected;

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

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

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

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

ACTION

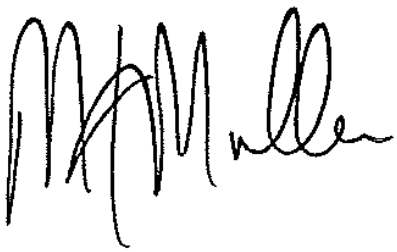
THEREFORE, the Department APPROVES the above noted application of the TOWN OF CANTON, to discharge an unspecified quantity of secondary treated waste waters to Whitney Brook, Class B, provided a dilution factor of at least 100:1 is maintained at all times, SUBJECT TO THE ATTACHED CONDITIONS, and all 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. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the this permit, the terms and conditions of the this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES



This permit is digitally signed by Michael Mullen on behalf of Acting Commissioner Patricia Aho. It is digitally signed pursuant to 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date. 2011.10.06 14:34:21 -04'00'

Date of initial receipt of application December 13, 2010.
Date of application acceptance December 14, 2010.

This Order prepared by GREGG WOOD, BUREAU OF LAND AND WATER QUALITY
ME0102067 2011 10/4/11

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - Outfall #001

1. Beginning the effective date of this permit, the permittee is authorized to discharge secondary treated waste waters from **Outfall #001** to Whitney Brook. Such discharges shall be limited and monitored by the permittee as specified below.

Effluent Characteristic	Discharge Limitations			Minimum Monitoring Requirements				
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Stream Flow *[00061]*	---	---	---	---	---	Report(1)cfs *[08]*	1/Discharge Day *[01/DD]*	Measure *[MS]*
Flow (Effluent) *[50050]*	Report MGD(2)*[03]*	---	Report MGD(2)*[03]*	---	---	---	Continuous *[99/99]*	Recorder *[RC]*
Dilution Factor *[80093]*	---	---	---	---	---	100(3) *[10]*	1/Discharge Day *[01/DD]*	Calculate *[CA]*
Biochemical Oxygen Demand *[00310]*	Report #/day(4)*[26]*	Report #/day(4) *[26]*	Report #/day(4)*[26]*	30 mg/L *[19]* *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24 Hour Composite *[24]*
BOD % Removal(5) *[81010]*	---	---	---	---	---	85% *[23]*	1/Month *[01/30]*	Calculate *[CA]*
Total Suspended Solids *[00530]*	Report #/day(4) *[26]*	Report #/day(4) *[26]*	Report #/day(4)*[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24 Hour Composite [24]
TSS % Removal(5) *[81011]*	---	---	---	---	---	85% *[23]*	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids *[00545]*	---	---	---	---	---	0.3 ml/L *[25]*	3/Week *[03/07]*	Grab *[GR]*
E. Coli Bacteria *[31633]* (*May 15 – September 30*) (6)	---	---	---	64/100 ml(7) *[13]*	---	427/100 ml *[13]*	1/Week *[01/07]*	Grab *[GR]*
Total Residual Chlorine *[50060]*	---	---	---	---	---	1.0 mg/L *[19]*	1/Discharge Day(8) *[01/DD]*	Grab *[GR]*
pH (Std. Unit) *[00400]*	---	---	---	---	---	6.0 – 9.0 SU *[12]*	1/Day *[01/01]*	Grab *[GR)*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – OUTFALL #001A (cont'd)

SCREENING LEVEL - Beginning twelve months prior to permit expiration and lasting through permit expiration and every five years thereafter.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	*Sample Type*
Whole Effluent Toxicity **(9)** Acute – NOEL *Ceriodaphnia dubia* *[TDA3B]* *(Water flea)*	---	---	---	Report % *[23]*	1/Year *[01/YR]*	Composite *[24]*
Chronic – NOEL *Salvelinus fontinalis* *[TDA6F]* *(Brook trout)*	---	---	---	Report % *[23]*	1/Year *[01/YR]*	Composite *[24]*
Analytical chemistry **(10)** *[51118]*	---	---	---	Report ug/L *[28]*	1/Year *[01/90]*	Composite/Grab *[24]*
Priority Pollutant **(11)** *[50008]*	---	---	---	Report ug/L *[28]*	1/Year *[01/YR]*	Composite/Grab *[24]*

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

2. Beginning the effective date of the permit, **Ground Water Monitoring Wells MW-1 and MW-2** shall be limited and monitored as specified below.

MW-1 – Northeast of Lagoon #1

MW-2 – Southeast of Holding Pond #2

	Daily Maximum as specified	**Measurement Frequency** as specified	**Sample Type** as specified
Depth to Water Level Below Landsurface *[72019]*	Report (feet) **(12)** *[27]*	1/5 Years**(13)** *[01/5Y]*	Measure *[MS]*
Nitrate-Nitrogen *[00620]*	10 mg/L *[19]*	1/5Years**(13)** *[01/5Y]*	Grab *[GR]*
Chloride (Total) *[00940]*	Report (mg/L) *[19]*	1/5 Years**(13)** *[01/5Y]*	Grab *[GR]*
Specific Conductance *[00095]*	Report (umhos/cm) *[11]*	1/5 Years**(13)** *[01/5Y]*	Grab *[GR]*
Temperature (°F) *[00011]*	Report (°F) *[15]*	1/5 Years**(13)** *[01/5Y]*	Grab *[GR]*
pH (Standard Units) *[00400]*	Report (S.U.) *[12]*	1/5 Years**(13)** *[01/5Y]*	Grab *[GR]*
Total Suspended Solids *[00530]*	Report (mg/L) *[19]*	1/5 Years**(13)** *[01/5Y]*	Grab *[GR]*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – Outfall #001 (cont'd)

Footnotes:

Sampling - Effluent receiving secondary treatment (Outfall #001) shall be sampled for all parameters specified in Special Condition A of this permitting action from the "*Effluent Monitoring Manhole*" as depicted on a drawing entitled, Treatment Site: Stabilization Ponds Process Piping, by Woodard & Curran Inc., dated August 1983. Any change in sampling location must be reviewed and approved by the Department in writing.

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

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

(1) **Stream flow** - The stream flow shall be measured daily, when discharging, at the flow measuring station located at the bridge just upstream of Outfall 001.

(2) **Discharge flow** - When discharging, Canton shall maintain a minimum dilution ratio of receiving water to plant flow of 100:1 at all times.

(3) **Dilution factor** – The dilution factor for each discharge shall be calculated in accordance with the following formula;

$$\frac{\text{Plant flow (MGD)} + \text{Stream flow (MGD)}}{\text{Plant flow (MGD)}}$$

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – Outfall #001 (cont'd)

Footnotes:

(4) **BOD_5 and TSS** – Both flow and mass based limitations for BOD_5 and TSS are based on a sliding scale in Table A (**Attachment B**) of this permit and are dependent on flows measured in Whitney Brook.

(5) **Percent removal** – For secondary treated waste waters, the facility shall maintain a minimum of 85 percent removal of both BOD_5 and TSS. Compliance with the limitation is based on a twelve-month rolling average. Calendar monthly average percent removal values shall be calculated based on influent and effluent concentrations. The percent removal is not applicable when the monthly average influent concentration is less than 200 mg/L and shall not be included in the rolling average calculations. The permittee is not required to calculate percent removal rates until an influent sampling point is constructed that does not constitute a confined entry space.

(6) ***E. coli* bacteria** - *E. coli* bacteria limits are seasonal and apply between May 15th and September 30th of each year. The Department reserves the right to require disinfection to protect the health, safety and welfare of the public.

(7) ***E. coli* bacteria** - This limit is a geometric mean value and shall be calculated and reported as such.

(8) **Total Residual Chlorine (TRC) -** Monitoring for TRC is only required when elemental chlorine or chlorine-based compounds are in use for effluent disinfection. The permittee shall utilize approved test methods that are capable of bracketing the TRC limitation in this permit.

(9) **Whole effluent toxicity (WET) testing** - Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the acute and chronic critical thresholds of 1.0%), 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.

a. **Surveillance level testing** – Waived pursuant to Chapter 530(1)(D)(3).

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – Outfall #001 (cont'd)

Footnotes:

b. **Screening level testing - Beginning twelve (12) months prior to the expiration date of the permit and every five years thereafter**, the permittee shall initiate screening level WET testing at a frequency of once per year (1/Year). Screening level WET tests shall be conducted using the water flea (*Ceriodaphnia dubia*) and the brook trout (*Salvelinus fontinalis*). The permittee is also required to analyze the effluent for the parameters specified in the analytical chemistry on the form in **Attachment A** of this permit each time a WET test is performed. 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 threshold of 1.0%.

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

a. Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to 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.

See **Attachment C** of this permit for a copy of the Department's WET report form.

(10) **Analytical chemistry** – Refers to a suite of chemical tests list in **Attachment A** of this permit.

a. **Surveillance level testing** – Waived pursuant to Chapter 530(1)(D)(3).

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – Outfall #001 (cont'd)

Footnotes:

b. **Screening level testing - Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter**, the permittee shall conduct screening level analytical chemistry testing at a minimum frequency of once per year (1/Year). Analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department. See **Attachment A** of this permit for a list of the Department's reporting limits.

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 Department rule Chapter 584. For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

(11) **Priority pollutant testing** – Refers to a suite of chemical tests list in **Attachment A** of this permit.

a. **Surveillance level testing** – Not required pursuant to Chapter 530(1)(D)(3).

b. **Screening level testing - Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter**, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per year (1/Year).

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

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – Outfall #001 (cont'd)

Footnotes:

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

(12) **Depth To Water Level Below Surface** – Shall be measured to the nearest $1/10^{th}$ of a foot.

(13) **Ground Water Monitoring – Sampling shall be conducted in the month of May during the fifth year of the term of this permit.** Consistent trends upwards or sudden spikes from previous levels shall be reported immediately to the Department, and may necessitate the need for additional ground water testing requirements.

B. NARRATIVE EFFLUENT LIMITATIONS

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

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

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

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

C. STREAM FLOW MONITORING

When discharging, the stream flow shall be monitored daily by measuring the height of the water in Whitney Brook at the established flow measuring station (mobile staff gauge) located at the bridge just upstream of Outfall 001.

SPECIAL CONDITIONS

D. TREATMENT PLANT OPERATOR

The treatment facility must be operated by a person holding a minimum of a **Grade II** certificate (or Registered Maine Professional Engineer) pursuant to *Sewerage Treatment Operators*, 32 M.R.S.A. §§ 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.

E. LIMITATIONS FOR INDUSTRIAL USERS

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

E. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on December 13, 2010; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. 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), *Bypasses*, 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 waste water collection and treatment system from an indirect discharger in a primary industrial category discharging process waste water; and

2. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system.

3. For the purposes of this section, adequate notice shall include information on:

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

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

SPECIAL CONDITIONS

G. WET WEATHER FLOW MANAGEMENT PLAN

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

The plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events. **The permittee shall review their plan annually** and record any necessary changes to keep the plan up to date.

H. OPERATION & MAINTENANCE (O&M) PLAN

On or before December 1, 2011, ***[PCS code 15599]*** The permittee shall update the Operation & Maintenance (O&M) Plan for the facility. The plan shall provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

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

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

I. MERCURY

All mercury sampling (2/Year) required by this permit or required to determine compliance with interim limitations established pursuant to Department rule Chapter 519, shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analysis shall be conducted in accordance with EPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment D,** *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

SPECIAL CONDITIONS

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

By December 31 of each calendar year, the permittee shall provide the Department with a certification describing any of the following that have occurred since the effective date of this permit ***[PCS Code 95799]***: See **Attachment E** of the Fact Sheet for an acceptable certification form to satisfy this Special Condition.

(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.

In addition, in the comments section of the certification form, the permittee shall provide the Department with statements describing;

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

(e) Increases in the type or volume of hauled wastes accepted by the facility.

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

K. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and postmarked on or before the thirteenth (13^{th}) 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 (15^{th}) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the Department's compliance inspector (unless otherwise specified) at the following address:

Department of Environmental Protection
Division of Water Quality Management
Station House Station #17
Augusta, Maine 04333

SPECIAL CONDITIONS

K. MONITORING AND REPORTING (cont'd)

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

L. REOPENING OF PERMIT FOR MODIFICATIONS

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

M. SEVERABILITY

In the event that any provision, 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 1/22/2009

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)		**Flow for Day (MGD)[1]**	**Flow Avg. for Month (MGD)[2]**
Acute dilution factor			
Chronic dilution factor		**Date Sample Collected**	Date Sample Analyzed
Human health dilution factor			
Criteria type: M(arine) or F(resh)			

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

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

FRESH WATER VERSION

Please see the footnotes on the last page.

			Effluent Limits, %			Receiving Water or Ambient	**Effluent Concentration (ug/L or as noted)**		**Possible Exceedence [7]**		
			Acute	Chronic			WET Result, % Do not enter % sign	Reporting Limit Check	Acute	Chronic	
	WHOLE EFFLUENT TOXICITY										
	Trout - Acute										
	Trout - Chronic										
	Water Flea - Acute										
	Water Flea - Chronic										
	WET CHEMISTRY										
	pH (S.U.) (9)					(8)					
	Total Organic Carbon (mg/L)					(8)					
	Total Solids (mg/L)										
	Total Suspended Solids (mg/L)										
	Alkalinity (mg/L)					(8)					
	Specific Conductance (umhos)										
	Total Hardness (mg/L)					(8)					
	Total Magnesium (mg/L)					(8)					
	Total Calcium (mg/L)					(8)					
	ANALYTICAL CHEMISTRY [3]										

	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L Acute[6]	Chronic[6]	Health[6]			Reporting Limit Check	**Possible Exceedence [7]** Acute	Chronic	Health
	TOTAL RESIDUAL CHLORINE (mg/L) (9)	0.05				NA					
	AMMONIA	NA				(8)					
M	ALUMINUM	NA				(8)					
M	ARSENIC	5				(8)					
M	CADMIUM	1				(8)					
M	CHROMIUM	10				(8)					
M	COPPER	3				(8)					
M	CYANIDE	5				(8)					
M	LEAD	3				(8)					
M	NICKEL	5				(8)					
M	SILVER	1				(8)					
M	ZINC	5				(8)					

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

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

Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form
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V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									
V	BROMOFORM	5									
V	CARBON TETRACHLORIDE	5									
V	CHLOROBENZENE	6									
V	CHLORODIBROMOMETHANE	3									
V	CHLOROETHANE	5									
V	CHLOROFORM	5									
V	DICHLOROBROMOMETHANE	3									
V	ETHYLBENZENE	10									
V	METHYL BROMIDE (Bromomethane)	5									
V	METHYL CHLORIDE (Chloromethane)	5									
V	METHYLENE CHLORIDE	5									
V	TETRACHLOROETHYLENE (Perchloroethylene or Tetrachloroethene)	5									
V	TOLUENE	5									
V	TRICHLOROETHYLENE (Trichloroethene)	3									
V	VINYL CHLORIDE	5									

Notes:

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

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

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

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

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

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

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

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

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

Comments:

ATTACHMENT B

TABLE A

TOWN OF CANTON WASTEWATER TREATMENT FACILITY

Effluent Flow and Corresponding Discharge Limitations

Whitney Brook Gauge Height	Brook Flow (cfs)	Brook Flow (mgd)	Corresponding Discharge Rate Required to Maintain 100:1 Dilution Ratio (mgd)	Corresponding Total Daily Flow (gpm)	TSS/BOD Limits (mg/l)			TSS/BOD Limits (#/day)		
					monthly avg	weekly avg	daily max	monthly avg	weekly avg	daily max
0.7	1.7	1.1	0.011	8	30	45	50	3	4	5
0.9	4.2	2.7	0.027	19	30	45	50	7	10	11
1.1	7.7	5.0	0.050	35	30	45	50	12	19	21
1.3	12.2	7.9	0.079	55	30	45	50	20	30	33
1.5	17.8	11.5	0.115	80	30	45	50	29	43	48
1.7	24.3	15.7	0.157	109	30	45	50	39	59	65
1.9	31.7	20.5	0.205	142	30	45	50	51	77	85
2.1	40.0	25.9	0.259	180	30	45	50	65	97	108
2.3	49.2	31.8	0.318	221	30	45	50	80	119	133
2.5	59.2	38.3	0.383	266	30	45	50	96	144	160
2.6	64.7	41.8	0.418	290	30	45	50	105	157	174
2.7	70.1	45.3	0.453	315	30	45	50	113	170	189
2.8	75.9	49.1	0.491	341	30	45	50	123	184	205
2.9	81.7	52.8	0.528	367	30	45	50	132	198	220
3.1	94.0	60.8	0.608	422	30	45	50	152	228	253
3.3	107.1	69.2	0.692	481	30	45	50	173	260	289
3.5	120.8	78.1	0.781	542	30	45	50	195	293	326
3.7	135.1	87.3	0.873	607	30	45	50	219	328	364
3.9	150.1	97.0	0.970	674	30	45	50	243	364	404
4.1	165.6	107.0	1.070	743	30	45	50	268	402	446
4.3	181.6	117.4	1.174	815	30	45	50	294	440	489
4.5	198.1	128.0	1.280	889	30	45	50	320	480	534
4.7	215.0	138.9	1.389	965	30	45	50	348	521	579
4.9	232.3	150.1	1.501	1,042	30	45	50	376	563	626
5.1	249.9	161.5	1.615	1,121	30	45	50	404	606	673
5.3	267.8	173.1	1.731	1,202	30	45	50	433	649	722
5.5	285.9	184.8	1.848	1,283	30	45	50	462	693	770
5.7	304.2	196.6	1.966	1,365	30	45	50	492	738	820
5.9	322.6	208.5	2.085	1,448	30	45	50	522	782	869
6.1	341.0	220.4	2.204	1,530	30	45	50	551	827	919
6.3	359.4	232.3	2.323	1,613	30	45	50	581	872	969

ATTACHMENT C

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
FRESH WATERS

Facility Name _____ MEPDES Permit # _____

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 _____ (mm/dd/yy) Date Tested _____ (mm/dd/yy)

Chlorinated? _____ Dechlorinated? _____

Results	**% effluent**	
	water flea	**trout**
A-NOEL		
C-NOEL		

Effluent Limitations	
A-NOEL	
C-NOEL	

Data summary	**water flea**			**trout**		
	% survival		**no. young**	**% survival**		**final weight (mg)**
QC standard	**A>90**	**C>80**	**>15/female**	**A>90**	**C>80**	**> 2% increase**
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

for trout show final wt and % incr for both controls

Reference toxicant	water flea		trout	
	A-NOEL	C-NOEL	A-NOEL	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 (Fresh Water Version), March 2007."

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 MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **August 23, 2011**

PERMIT NUMBER: **ME0102067**
LICENSE NUMBER: **W006445-6C-I-R**

NAME AND ADDRESS OF APPLICANT:

TOWN OF CANTON
Pollution Abatement Facility
P. O. Box 606
Canton, Maine 04221

COUNTY: **Oxford County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Town of Canton
Primrose Lane
Canton, Maine 04221

RECEIVING WATER/CLASSIFICATION: **Whitney Brook/Class B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER**: Mr. John Cronin, Operator**
(207) 597-2920
e-mail: john_l_cronin@yahoo.com

1. APPLICATION SUMMARY

a. Application: The Town of Canton (Town/permittee hereinafter) has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102067/ Maine Waste Discharge License (WDL)#W006445-5L-F-R, (permit hereinafter) which was issued on February 22, 2006, and expired on February 22, 2011. The MEPDES permit/WDL approved the discharge of up to a monthly average flow of 0.621 million gallons per day (MGD) of secondary treated waste water from a publicly owned treatment works (POTW) facility to Whitney Brook, Class B, in Canton, Maine. It is noted the February 22, 2006 permit was subsequently modified on September 4, 2008, to eliminate a prohibition on discharging when Whitney Brook was <10 cfs. See **Attachment A** of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont'd)

b. Source Description: Waste waters collected and treated at the waste water treatment facility are generated by residential and commercial users within the Town of Canton. The sanitary collection system is approximately 10,000 feet in length with two pump stations and no combined sewer overflows (CSO's). The main pump stations that conveys all the sanitary waste water collected up to the treatment facility has on-site back-up power while the smaller pump station is served by a portable generator for back-up power needs. Canton and waste water treatment facility is not authorized to accept septage/transported wastes at the facility.

c. Waste Water Treatment: The Town of Canton's wastewater treatment system is a 0.06 MGD facultative lagoon system. Treatment of the wastewater is the result of microorganisms in the water consuming the waste. The system consists of four treatment ponds; one primary, one secondary and two holding ponds. The first two ponds are run in series with the final two being used as holding ponds. The surface area for the ponds is as follows:

- primary pond: 1.55 acres
- secondary pond: 2.17 acres
- each of the two holding ponds: 1.47 acres

The treated wastewater is stored in the holding ponds until discharge, approximately 5 times per year. Because of the long retention time of the ponds, the *E. coli* bacteria die off will be great enough so that the limits can be met without disinfection. The treatment plant was originally designed and constructed to remove a minimum of 85% of the total suspended solids (TSS) and biochemical oxygen demand (BOD).

Primary Pond:

All of the wastewater from the Town of Canton is pumped to pond #1, the primary pond, causing this pond to have the highest BOD and TSS concentrations. The major portion of treatment that will take place in this pond is the settling of solids, or the removal of TSS. Because of the high BOD concentrations in this step of the process, the demand for oxygen is high. This demand will deplete the oxygen concentration in the water making the lower layers anaerobic (without oxygen). Oxygen is present at the top layer of the pond because of re-aeration at the air-water interface and photosynthetic activity of the algae. This layer of aerobic water will provide a buffer from the anaerobic zone and controls odor problems from the ponds. Sludge settling at the bottom is reduced through anaerobic digestion by bacteria present due to the lack of oxygen.

1. APPLICATION SUMMARY (cont'd)

Secondary Pond:

The water flowing from the primary pond to the secondary pond has lower concentrations of BOD and TSS because of primary treatment. There will be greater oxygen content in this stream however as a result of:

- Less demand for oxygen from the incoming primary treated water.
- Re-Aeration at the air-water interface.
- Greater light penetration through the water column, therefore more photosynthetic activity of algae taking place.

The secondary pond is where most of the BOD reduction takes place. An equilibrium is set up between the oxygen demanding bacteria and algae. The bacteria use oxygen and the BOD in the waste water to produce carbon dioxide, ammonia and phosphates. The algae need these by products for food and in return, produce oxygen. As the algae and bacteria die, they settle to the bottom of the pond along with any solids which did not settle out in the primary pond. This bottom benthic layer of the pond, where the sludge accumulates, is anaerobic. Like the primary pond, sludge settling at the bottom is reduced through anaerobic digestion.

Holding Ponds:

The holding ponds are designed to hold the treated wastewater until discharge. Some settling also takes place in these ponds, further reducing the BOD and TSS concentrations. Discharges typically take place 3 – 6 times per year and last approximately 25 days.

2. MODIFICATIONS REQUESTED

The permittee has requested the following modifications be incorporated into this permitting action:

a. Reduce ground water monitoring to 1/5 Years given test results to date indicate there has never been an adverse impact to ground water from the lagoons.

b. Modify the concentration limits for biochemical oxygen demand (BOD) and total suspended solids (TSS) from secondary best practicable treatment (BPT) standards (30 mg/L monthly average, 45 mg/L weekly average and 50 mg/L daily maximum) to equivalent to secondary treatment (45 mg/L monthly average and 65 mg/L weekly average) pursuant to Department rule 06-096 CMR, Chapter 525, *Effluent Guidelines and Standards*, Section 3, *Secondary Treatment*, §VI, *Treatment equivalent to secondary treatment*.

2. MODIFICATIONS REQUESTED (cont'd)

c. Decrease the monitoring frequency for whole effluent toxicity (WET), analytical chemistry and priority pollutant over the five-year term of the permit. Currently, the permittee is required to conduct 3 WET tests, 3 analytical chemistry tests and 1 priority pollutant test over the five-year term of the permit. The permittee is requesting the Department to reduce test to 1 WET test, 1 analytical chemistry tests and 1 priority pollutant test over the five-year term of the permit.

d. Modify Attachment B of the permit entitled, Table A, *Town of Canton Waste Water Treatment Facility, Effluent Flow and Corresponding Proposed Discharge Limitations*, by requiring a minimum dilution factor of 100:1 (up from 53:1 in the previous permit) when discharging to reduce WET, analytical chemistry and priority pollutant over the five-year term of the permit.

3. PERMIT SUMMARY

a. Terms and conditions - This permitting action is carrying forward all the terms and conditions of the previous permitting action except that this permit is;

1. Reducing the ground water monitoring frequency from 1/Year to 1/5 Years.

2. Reducing the monitoring frequency to 1 WET test, 1 analytical chemistry tests and 1 priority pollutant test over the five-year term of the permit.

3. Establishing monthly average and daily maximum technology based concentration limitations for total residual chlorine (TRC) in the event the permittee needs to disinfect the discharge to meet *E. coli* bacteria limitations.

4. Modifying Attachment B of the permit entitled, *Table A, Town of Canton Waste Water Treatment Facility, Effluent Flow and Corresponding Proposed Discharge Limitations,* by requiring a minimum dilution factor of 100:1 (up from 53:1 in the previous permit) when discharging.

The Department is denying the permittee's request to increase the concentration limits for BOD and TSS as test results submitted to the Department for the previous 40 months do not support the request. See section 7(c) for a more in-depth discussion on this matter.

3. PERMIT SUMMARY (cont'd)

b. History: The most current permitting/licensing actions include the following:

April 12, 1991 - The Department issued Waste Discharge License #W006445-59-C-R for a five-year term.

September 19, 1994 - The U.S Environmental Protection Agency (EPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0102067 for a five-year term.

June 29, 1998 - The Department issued Waste Discharge License #W006445-5L-D-R for a five-year term.

June 20, 2000 – The Department modified the June 29, 1998 WDL by establishing interim average and maximum technology based concentration limits of 4.5 parts per trillion (ppt) and 6.8 ppt for mercury.

January 12, 2001 - The Department received authorization from EPA to administer the NPDES program in Maine. From that point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) Program and MEPDES permit number ME0102067 was established as the primary reference number for the facility.

July 17, 2001 – The Department issued combination MEPDES permit #ME0102067/WDL #W006445-5L-E-M modification with an expiration date of June 29, 2003.

July 7, 2003 – The Department issued MEPDES permit #ME0102067/WDL #W006445-5L-F-R for a five-year term.

June 10, 2005 – The permittee submitted an application to the Department to modify the MEPDES permit/WDL issued by the Department on 7/7/03.

February 22, 2006 – The Department issued combination MEPDES permit #ME0102067/WDL #Woo6445-5L-G-M for a five-year term.

September 4, 2008 – The Department modified the 2/22/06 permit by eliminating a prohibition on discharging when Whitney Brook was <10 cfs.

December 13, 2010 – The Town submitted a timely and complete application to the Department to renew the MEPDES permit/WDL.

4. CONDITIONS OF PERMITS

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

5. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A., §467(1)(A)(2) states that Whitney Brook is a Class B waterway. Maine law 38 M.R.S.A., §465(4) contains the standards for Class B waters as follows;

Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired.

The dissolved oxygen content of Class B waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures.

Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community.

6. RECEIVING WATER QUALITY CONDITIONS

A document entitled, State of Maine, Department of Environmental Protection, 2010 Integrated Water Quality Monitoring and Assessment Report indicates that Whitney Brook is not meeting the standards of its Class B classification in that a 1.82 mile segment is not meeting Class B aquatic life standards based on macro-invertebrate sampling last conducted by the Department in 1998. The 1.8-mile segment of the brook has been placed in a section entitled, *Category 5-A: Rivers And Streams Impaired By Pollutants Other Than Those Listed in 5-B through 5-D, (TMDL Required)* of the 2010 report. It is noted the Department's 1998 macro-invertebrate sampling station is located 40 meters below the Route #140 bridge which is upstream of the discharge from the Canton waste water treatment facility. The report does not cite the discharge from the Canton waste water treatment facility as causing or contributing to the non-attainment. The permittee's application indicates that discharges occur 3-6 times per year, typically for 25 days per discharge event. Discharges to Whitney Brook during the June – September timeframe are infrequent and have only been in response to heavy rainfall events and/or unplanned repairs or maintenance. Therefore, discharges to the receiving water during low flow conditions when the receiving water is at the greatest risk of
adverse impacts from the discharge are virtually non-existent. The report states the likely cause of the non-attainment is non-point source (NPS) runoff in the watershed and that a TMDL is scheduled for completion in calendar year 2012.

If however, during future water quality assessments and modeling for the purposes of completing a TMDL for Whitney Brook the Department determines that at full permitted discharge limits, the Town of Canton's discharge is causing or contributing to the non-attainment, this permit will be re-opened per Special Condition L, *Reopening of Permit For Modifications*, to impose more stringent limitations to meet water quality standards.

In addition, the 2010 305(b) Report lists all freshwaters in Maine in "*Category 4-A: Rivers and Streams With Impaired Use, TMDL Completed.* Impairment in this context refers to the designated use of recreational fishing due to elevated levels of mercury in some fish caused by atmospheric deposition. As a result, the State has established a fish consumption advisory for all freshwaters in Maine. The Report states that a regional scale TMDL has been approved. In addition, pursuant to Maine law, 38 M.R.S.A. §420(1-B)(B), *"a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11."* The Department has established interim monthly average and daily maximum mercury concentration limits for this facility. See the discussion on compliance in section 7(h) of this Fact Sheet.

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Flow: The previous permit established a sliding scale ranging from 0.124 MGD to 0.621 MGD as a daily maximum while maintaining a dilution factor of greater than or equal to 53:1. Section 2 (a-c) of the 2/22/06 permit's Fact Sheet provided an explanation of the permittee's request to be regulated via a sliding scale as follows:

The permittee has indicated authorizing the facility to increase the discharge flow would provide the following benefits:

a) Decreased costs: Greater discharge rates would shorten the duration of discharges and require less labor by the Facility employees. In addition, a reduction in costs by the contract laboratory that completes the TSS, BOD and E-coli bacteria tests will also be achieved.

b) Allow more flexibility in lagoon level management: At the current monthly average flow of 250,000 gallons per day, lengthy discharges are required to see even minor changes in the lagoon levels. Increasing the flow limitation would allow more immediate reductions in the lagoon levels while ensuring compliance with effluent limitations in the most expeditious manner possible.

c) Minimize impacts on Whitney Brook: The facility currently discharges 15 – 40 discharges per year at various times of the year. Allowing a greater discharge would ensure that discharges of clean wastewater can be completed in the most timely manner possible. Periods of high brook flows are also the time periods when the dilution ratio will most often times be much greater than the minimum 53:1.

The dilution factor of 53:1 was established by the Department more than 20 years ago and is the threshold dilution in Whitney Brook whereby Class B dissolved oxygen standards will be maintained. Up until the last permitting action, the permittee had chosen 0.621 MGD as the top end of the scale given constraint's in obtaining accurate flow measurements in Whitney Brook above 50 cfs. In July of 2011, the Department obtained field measurements to more accurately measure stream flows when Whitney Brook is flowing at greater than 50 cfs. A new stage versus discharge curve was established for flows up to 360 cfs. Given the control the permittee has on the timing, duration and conditions under which to discharge as the result of a "hold and release" treatment system as well as a new stage versus discharge curve, the Town has requested the Department increase the minimum dilution factor for discharge from 53:1 to 100:1. The Department is granting the request. The permittee will be not be limited by flow in this permitting action provided the discharge is in compliance with the schedule in **Attachment B** of the permit entitled, *Table A, Town of Canton Wastewater Treatment Facility, Effluent Flow and Corresponding Discharge Limitations*. It is noted Special Condition C, *Stream Flow Monitoring*, of this permit requires the permittee to measure flow in Whitney Brook on a daily basis when discharging.

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

b. Dilution Factors - The Department establishes applicable dilution factors for the discharge in accordance with freshwater protocols established in Department Rule Chapter 530, *Surface Water Toxics Control Program*, October 2005. Up until 2008, a private entity previously owned and operated a dam (Tannery Dam) at the outlet of Anasagunticook Lake (Canton Lake) which controls the flow rate in Whitney Brook. In calendar year 2008, the Town exercised its powers of eminent domain and took possession of the dam as the private owner failed to take the necessary corrective actions to repair the dam as ordered by two 2007 Dam Safety Orders issued by the Maine Emergency Management Agency.

On June 9, 2011, the Department issued a Natural Resource Protection (NRPA) Stream Alteration Permit (L-25258-L6-A-N) authorizing the Town of Canton to construct a new concrete gravity dam (Anasagunticook Dam) in Whitney Brook to replace the Tannery Dam which is in disrepair. The new dam will be located 120 feet upstream of the former Tannery Dam with dimensions of 67 feet long and 11 feet high. The 6/9/11 NRPA permit establishes flows in Whitney Brook as follows:

> *A minimum flow release equal to inflow shall be maintained from the dam at all times except: 1) following drawdown of the lake for flood control purposes, re-fill in April-May must provide for minimum water release of 20 cfs; 2) during unusual situations such as refill after emergency dam repair, flashboard failure and replacement, or similar situations, outflow may be reduced as needed but no less than 3 cfs; 3) whenever the lake level has fallen to 2 feet below the normal full pond level, outflow may be reduced to no less than 1 cfs. These minimum releases standards may be modified or replaced if the Department establishes water levels for Anasagunticook Lake pursuant to 38 M.R.S.A., §840.*

Because the NRPA permit establishes a "… *minimum flow release equal to inflow shall be maintained from the dam at all times…*" this permitting action is carrying forward limitations based on a revised sliding scale pursuant to **Attachment B** of the permit. The foundation for the sliding scale is to maintain acute and chronic dilution factors of 100:1 under all discharge flow regimes based on the flow in Whitney Brook.

The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication Technical Support Document for Water Quality-Based Toxics Control (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow. Therefore, the harmonic dilution factor associated with the discharge from the Canton facility may be calculated to be 300:1.

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

In summary, the dilution factors are as follows:

Acute⇒ 100:1
Chronic⇒ 100:1
Harmonic Mean⇒ 300:1

The previous permitting action required the permittee to measure effluent flow, stream flow and calculate the dilution factors whenever discharging. A review of the monthly Discharge Monitoring Report (DMR) data for the period January 2008 – March 2011 indicates stream flows and dilution factors were reported as follows:

Effluent flow (DMRs = 14)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Daily maximum	0.621	0.358 – 0.531	0.404

Stream flow (DMRs = 14)

Value	Limit (cfs)	Range (cfs)	Mean (cfs)
Instantaneous	Report	42 – 50	50

Dilution factor (DMRs = 14)

Value	Limit (ratio)	Range (ratio)	Mean (ratio)
Instantaneous	Report	54 – 90	72

c. Biochemical Oxygen Demand (BOD5) & Total Suspended Solids (TSS): - The previous permit established monthly and weekly average BOD5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L respectively, that were based on secondary treatment requirements of Department rule Chapter 525(3)(III). The maximum daily BOD5 and TSS concentration limits of 50 mg/L were based on a Department best professional judgment of BPT. All three concentration limits are being carried forward in this permitting action.

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

In the December 2010 application for renewal of the MEPDES permit/WDL, the permittee requested the Department modify the concentration limits for biochemical oxygen demand (BOD) and total suspended solids (TSS) from secondary best practicable treatment (BPT) standards (30 mg/L monthly average, 45 mg/L weekly average and 50 mg/L daily maximum) to equivalent to secondary treatment (45 mg/L monthly average and 65 mg/L weekly average) pursuant to Department rule 06-096 CMR, Chapter 525, *Effluent Guidelines and Standards*, Section 3, *Secondary Treatment*, §VI, *Treatment equivalent to secondary treatment*. Said Chapter contains the following text;

Subsection VI. Treatment equivalent to secondary treatment. [see 40 CFR 133.105]

This subsection describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment (Subsection II(g)) in terms of the parameters--BOD-5, SS and pH. All requirements for the specified parameters in paragraphs(a), (b) and (c) of this subsection shall be achieved except as provided for in Subsection IV, or paragraphs (d), (e) or (f) of this subsection.

(a) BOD-5.

(1) The 30-day average shall not exceed 45 mg/l
(2) The 7-day average shall not exceed 65 mg/l.
(3) The 30-day average percent removal shall not be less than 65 percent.

(b) SS. Except where SS values have been adjusted in accordance with Subsection IV(c):

(1) The 30-day average shall not exceed 45 mg/l.
(2) The 7-day average shall not exceed 65 mg/l.
(3) The 30-day average percent removal shall not be less than 65 percent.

(c) pH. The requirements of Subsection III(c) shall be met.

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

(d) Alternative State requirements. Except as limited by paragraph(f) of this subsection, and after notice and opportunity for public comment, the Department, subject to EPA approval, is authorized to adjust the minimum levels of effluent quality set forth in paragraphs (a)(1), (a)(2), (b)(1) and (b)(2) of this subsection for trickling filter facilities and in paragraphs (a)(1) and (a)(2) of this subsection for waste stabilization pond facilities, to conform to the BOD-5 and SS effluent concentrations consistently achievable through proper operation and maintenance (Subsection II(f)) by the median (50th percentile) facility in a representative sample of facilities within a State or appropriate contiguous geographical area that meet the definition of facilities eligible for treatment equivalent to secondary treatment (Subsection II(g)).

In August of 1997, the Maine Lagoon Task Force with support of the Maine Department of Environmental Protection published a report entitled User's Manuel, Design, Operation & Regulation of Aerated Facultative Lagoons in Maine. It is noted said report was revised in May 2003. The report was in response to a number of lagoon facilities in Maine that questioned whether the effluent quality set forth in paragraphs Chapter 525, Section 3, §VI paragraphs (a)(1), (a)(2), (b)(1) and (b)(2) (30 mg/L monthly average and 45 mg/L as a weekly average) were consistently achievable in the State of Maine given the climatic conditions.

The report concluded, *"The analysis does not support adjusting BOD5 and TSS effluent limits across the board for lagoons and ponds in Maine. The analysis does support adjusting BOD5 and TSS effluent limitations on a case-by-case basis."* The report goes on to state, *"The Task Force recommends that effluent BOD5 and TSS concentrations could range up to a maximum of 45 mg/L as a 30-day average when:*

a) the facility cannot consistently achieve secondary treatment defined as a 30-day average of 30 mg/L 95 percent of the time based on at least three years of monthly average data,

b) the facility provided information and data to demonstrate that the problem is uncontrollable while using a properly designed and operated lagoon or pond as the principle biological treatment process, and

c) there are no extenuating circumstances such as overloading or industrial wastes."

In response to the permittee's request to modify the concentration limits for BOD5 and TSS, the Department conducted a statistical evaluation on the monthly average concentration data for BOD5 and TSS reported to the Department on the DMRs submitted between January 2008 and March 2011 (3 years) to address recommendation (a) by the Task Force. The statistical evaluation indicates the permittee has achieved a monthly average BOD5 concentration of 24 mg/L 95% of the time and achieved a monthly average TSS concentration of 22 mg/L 95% of the time. As for

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

recommendations (b) & (c) above, the permittee has not provided the Department with information and or data to demonstrate that the problem is uncontrollable while using a properly designed and operated lagoon or pond as the principle biological treatment process and that there are extenuating circumstances such as overloading or industrial wastes.

Based on the evaluation on the previous page, the Department is denying the permittee's request to modify the concentration limits for BOD5 and TSS. The technology based concentrations limits established in the previous permit are being carried forward in this permitting action.

As for mass limitations, the previous permitting action established monthly average, weekly average and daily maximum mass limitations based on the daily maximum flow limit of 0.621 MGD. The limitations were calculated as follows:

Monthly average: (0.621 MGD)(8.34)(30 mg/L) = 155 lbs/day
Weekly average: (0.621 MGD)(8.34)(45 mg/L) = 233 lbs/day
Daily maximum: (0.621 MGD)(8.34)(50 mg/L) = 259 lbs/day

A review of the monthly DMR data for the period January 2008 – March 2011 indicates BOD and TSS have been reported as follows:

BOD Mass (DMRs = 12)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	155	20 – 142	61
Weekly Average	233	25 – 202	70
Daily Maximum	259	25 – 202	70

BOD Concentration (DMRs = 12)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	5.6 – 43	19
Weekly Average	45	5.6 – 61	21
Daily Maximum	50	5.6 – 61	21

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

TSS mass (DMRs = 12)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	155	11 – 136	44
Weekly Average	233	12 – 149	52
Daily Maximum	259	12 – 149	52

TSS concentration (DMRs = 12)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	3.1 – 41	14
Weekly Average	45	3.1 – 42	15
Daily Maximum	50	3.1 - 42	15

All mass limits for BOD and TSS established in the previous permitting action are being removed and being replaced with sliding scale limits established in Attachment B of this permit as discharge flows are no longer limited to 0.621 MGD. The monthly DMR will be coded with a "Report" only requirement due to the nature of the sliding scale.

This permitting action carries forward the requirement of 85% removal for BOD5 and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3). Compliance with the percent removal rate will be based on a twelve-month rolling average. The permittee is not required to demonstrate compliance with the percent removal requirements at this time. The *Response To Comments* section of the 7/17/01 permitting action contained the following text:

Comment: *The Town of Canton objected to the imposition of an 85% removal requirement for BOD and TSS and listed several reasons for their object including:*

1. *There exists no safe or representative location for collecting influent samples.*

2. *Data from 1992 indicated that influent BOD and TSS values were considerably below the plant's design criteria.*

3. *The Department has the discretion to eliminate or modify the 85% removal requirement pursuant to Department Rule Chapter 525, Subsection IV(c) as the facility is a waste stabilization pond.*

4. *The USEPA waived the percent removal requirement in the previous National Pollutant Discharge Elimination System (NPDES) permitting action citing the fact that the collection system is a combined system and the fact that the lagoons provided for a long detention time.*

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

Response: The Department has taken the position that the 85% removal requirement applies to all municipal waste water treatment facilities that provide a secondary level of treatment unless it is fundamentally different from the factors considered in development of the secondary treatment standards. The lagoon system for the Town of Canton is not fundamentally different. However, being that there is no safe (confined space) or representative location for collecting influent samples at the plant, the Department is establishing the percent removal requirement in this permitting action but is not requiring the facility to demonstrate compliance with the requirement at this time. Should future modifications at the treatment facility result in a safe and representative sampling location for influent sampling, this permit will be re-opened per Special Condition J to incorporate a 1/Month frequency for calculating the percent removal rates for BOD and TSS.

A review of the monthly DMR data for the period January 2008 through March 2011 indicates values have been reported as follows;

BOD % Removal (DMRs=3)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	85 - 100	95

TSS % Removal (DMRs=3)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	85 - 100	95

d. *E. coli* bacteria – The previous permitting action established seasonal (May 15th – September 30th) monthly average and daily maximum limits of 64 colonies/100 ml and 427 colonies/100 ml, respectively, that are being carried forward in this permitting action. The limits are based on the State of Maine Water Classification Program as established in Maine law, 38 M.R.S.A, §465(3). The facility has been able to comply with the monthly average and daily maximum water quality based limitations for bacteria without the use of a disinfectant. This is common for lagoon systems with long detention times.

It is noted Maine law, 38 M.R.S.A, §465(3) was amended subsequent to issuance of the February 22, 2006, permit, to establish more stringent AWQC for *E. coli* bacteria. The newer criteria for Class B waters are 64 colonies/100 ml as a monthly average and 236 colonies/100 ml as a daily maximum. The Department has made the determination that after taking into consideration the dilution associated with the discharge, the BPT limits established in this permitting action are protective of the newer AWQC for bacteria.

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

A review of the monthly Discharge Monitoring Report (DMR) data for the period May 2008 – September 2010 indicates *E. coli* bacteria have been reported as follows:

***E coli*. bacteria (DMRs = 1)**

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	64	<1 - <1	<1
Daily Maximum	427	<1 - <1	<1

e. Total Residual Chlorine (TRC) – The previous permitting action did not establish limits for TRC as the permittee has historically been able to meet the bacteria limits established in this and previous permitting actions without disinfecting the effluent prior to discharge. In the event disinfection is necessary, it is likely elemental chlorine or chlorine based compounds will be utilized. Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Permitting actions by the Department impose the more stringent of water quality or technology based limits. End-of-pipe water quality based concentration thresholds may be calculated as follows:

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	19 ug/L	11 ug/L	100:1	100:1	1.9 mg/L	1.1 mg/L

Example calculation: Acute – 0.019 mg/L (100) = 1.9 mg/L

In the case of the permittee's facility, the calculated acute water quality based threshold is higher than 1.0 mg/l, thus the BPT limit of 1.0 mg/L is imposed as a daily maximum limit. These limits are applicable for all discharge regimes as the acute and chronic dilution factor of 100:1 is maintained at all times.

A review of the seasonal DMR data for the period May 2005 – September 2010 indicates the daily maximum TRC discharged is as follows:

Total residual chlorine

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly average	0.1	No data	No data
Daily Maximum	0.3	No data	No data

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

f. pH Range- The previous permitting action established a pH range limit of 6.0 –9.0 standard units pursuant to Department rule, Chapter 525(3)(III)(c). The limits are considered BPT and are being carried forward in this permitting action. A review of the monthly DMR data for the period January 2008 – March 2011 indicates values have been reported as follows

pH (DMRs=14)

Value	Limit (su)	Range (su)	Average)
Range	6.0 – 9.0	6.1 – 8.6	n/a

g. Whole Effluent Toxicity (WET) and Chemical Specific Testing Maine Law, 38 M.R.S.A., Sections 414-A and 420, prohibits the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department Rules, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, and Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants* set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

WET, priority pollutant and analytical chemistry testing, as required by Chapter 530, is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health ambient water quality criteria (AWQC) as established in Chapter 584.

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

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

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

Department rule Chapter 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the Canton facility falls into the Level III frequency category as the facility has a chronic dilution factor of >100:1 but <500:1. Chapter 530(2)(D)(1) specifies that routine surveillance and screening level testing requirements are as follows:

Screening level testing

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

Surveillance level testing

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

A review of the permittee's data on file with the Department indicates that to date, it have fulfilled the WET and chemical-specific testing requirements of the previous permitting action. See **Attachment B** of this Fact Sheet for a summary of the WET test results and **Attachment C** of this Fact Sheet for a summary of the chemical-specific test dates.

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

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

Chapter 530 §3 states, "*The Department shall establish appropriate discharge prohibitions, effluent limits and monitoring requirements in waste discharge licenses if a discharge contains pollutants that are or may be discharged at levels that cause, have reasonable potential to cause, or contribute to an ambient excursion in excess of a numeric or narrative water quality criteria or that may impair existing or designated uses. The licensee must also control whole effluent toxicity (WET) when discharges cause, have a reasonable potential to cause, or contribute to an ambient excursion above the narrative water quality criteria. In determining if effluent limits are required, the Department shall consider all information on file and effluent testing conducted during the preceding 60 months. However, testing done in the performance of a Toxicity Reduction Evaluation (TRE) approved by the Department may be excluded from such evaluations.*"

WET evaluation

On 8/3/11, the Department conducted a statistical evaluation on the most recent 60 months of WET data that indicates there are no A-NOEL or C-NOEL test results for the water flea or the brook trout that exceed or have a reasonable potential to exceed the critical acute or chronic threshold of 1.0%.

Chapter 530 §3states - *Dischargers in* Level III may be waived from *surveillance testing WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*

Chapter 530 §3 states "*The Department may reduce testing requirements for dischargers that discharge less than 12 months per year in proportion to the actual number of months discharged, but to not less than one test per year where testing would otherwise be required. The Department may adjust test schedules to provide the most representative sampling program.*"

Given the provisions of Chapter 530 cited above, the Department is waiving surveillance level WET testing on both the water flea and the brook trout during the first four years of the term of the permit. Beginning 12 months prior to the expiration date of the permit and every five years thereafter, screening level testing for both the water flea and the brook trout shall be conducted at a frequency of once per year (1/year).

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

Chapter 530 (2)(D) states:

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

(a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the 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.

In accordance with Department rule Chapter 530(2)(D)(4) and Special Condition J, *06-096 CMR 530(2)(D)(4) Statement For Reduced/Waived Toxics Testing* of this permit, the permittee must annually submit to the Department a written statement evaluating its current status for each of the conditions listed.

Chemical valuation

Chapter 530 (promulgated on October 12, 2005) §4(C), states *"The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations."* The Department has limited information on the background levels of metals in the water column in Whitney Brook in the vicinity of the permittee's outfall. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

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

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

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

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

Evaluations must be done for individual pollutants of concern in each watershed or segment to assure that water quality criteria are met at all points in the watershed and, if appropriate, within tributaries of a larger river.

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

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

It is noted Whitney Brook is a tributary to the Androscoggin River and the permittee's analytical chemistry and priority pollutant results on file at the Department in calendar 2010 were evaluated when a statistical evaluation was conducted on the Androscoggin River watershed. The permittee is the only discharger on Whitney Brook so the analytical chemistry and priority pollutant results were also evaluated based on the assumption the assimilative capacity of Whitney Brook was the limiting factor. Both evaluations indicate the discharge from the Town of Canton's facility does not exceed or have a reasonable potential to exceed any acute, chronic or human health AWQC for any of the parameters tested to date.

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

Therefore, as with WET testing, this permit waives surveillance level analytical chemistry testing for the first four years of the term of the permit. It is noted Chapter 530 does not require surveillance testing for priority pollutants. Beginning 12 months prior to the expiration date of the permit and every five years thereafter, screening level testing for analytical chemistry and priority pollutants shall be conducted at a frequency of once per year (1/year).

In accordance with Department rule Chapter 530(2)(D)(4) and Special Condition J, *06-096 CMR 530(2)(D)(4) Statement For Reduced/Waived Toxics Testing* of this permit, the permittee must annually submit to the Department a written statement evaluating its current status for each of the conditions listed.

h. Mercury – Pursuant to *Certain deposits and discharges prohibited*, Maine law, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* on June 20, 2000, to the permittee thereby administratively modifying WDL #W006445-5L-D-R by establishing interim monthly average and daily maximum effluent concentration limits of 4.5 parts per trillion (ppt) and 6.8 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. It is noted the limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as limitations and monitoring frequencies are regulated separately through 38 M.R.S.A.§ 413 and 06-096 CMR 519. However, the interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of the Department's data base for the period April 2006 through the present indicates the permittee has been in compliance with the interim limits for mercury as the results have ranged from 1.1 ppt to 5.6 ppt with an arithmetic mean of 2.9 ppt.

i. Ground Water Monitoring – This permitting action is carrying forward the requirement for the monitoring of two existing monitoring wells (MW-1 and MW-2 see **Attachment D** of this Fact Sheet for approximate locations) as the results are utilized as a leak detection system for the lagoon system. The frequency of monitoring is being reduced from 1/Year to 1/ 5 Years based on the historical monitoring data indicating no threat to ground water to date.

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

The parameters selected for ground water monitoring are as follows:

Nitrate-nitrogen - Nitrogen compounds are by-products of the biological breakdown of ammonia and are inherent in domestic like sanitary waste water. Because nitrate-nitrogen is weakly absorbed by soil, it functions as a reliable indicator of contamination from waste-disposal sites. Elevated levels of nitrate-nitrogen in the drinking water supply are of human health concern. The limit of 10 mg/L is a National Primary Drinking Water standard.

Specific Conductance, Temperature and pH are considered to be "field" parameters meaning that they are measured directly in the field via instrumentation and does not require laboratory analysis. These parameters are considered as surveillance level monitoring parameters and are used as an early-warning indicators of potential groundwater contamination.

Chlorides - Is another early-warning indicator of potential groundwater contamination by wastewater. The National Secondary Drinking Water standard is 250 mg/L.

Total Suspended Solids (TSS) - TSS in the groundwater yields an indication of the integrity of the monitoring wells.

A review of the seasonal DMR data for the period May 2004 – May 2010 indicates nitrate-nitrogen values have been reported as follows:

MW-1

Nitrate-nitrogen (DMRs=10)

Limit (mg/L)	Range (mg/L)	Average (mg/L)
10	<0.2 - <1.0	0.3

Specific conductance (DMRs=10)

Limit (umhos/cm)	Range (umhos/cm)	Average (umhos/cm)
Report	50 – 74	63

Temperature (DMRs=10)

Limit (°F)	Range (°F)	Average (°F)
Report	45 – 48	46

Chlorides (DMRs=10)

Limit (mg/L)	Range (mg/L)	Average (mg/L)
10	<1 – 1	0.6

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

MW-1

TSS (DMRs=10)

Limit (mg/L)	Range (mg/L)	Average (mg/L)
Report	<1 – 114	23

Depth to GW (DMRs=10)

Limit (feet)	Range (feet)	Average (feet)
Report	5.9 – 11	8

pH (DMRs=10)

Limit (su)	Range (su)	Average (su)
Report	6.3 – 6.9	n/a

MW-2

Nitrate-nitrogen (DMRs=10)

Limit (mg/L)	Range (mg/L)	Average (mg/L)
10	0.34 – 1.38	0.7

Specific conductance (DMRs=10)

Limit (umhos/cm)	Range (umhos/cm)	Average (umhos/cm)
Report	46 – 251	144

Temperature (DMRs=10)

Limit (°F)	Range (°F)	Average (°F)
Report	49 – 63	54

Chlorides (DMRs=10)

Limit (mg/L)	Range (mg/L)	Average (mg/L)
10	2 – 32	16

TSS (DMRs=10)

Limit (mg/L)	Range (mg/L)	Average (mg/L)
Report	<1 – 10	3

Depth to GW (DMRs=10)

Limit (feet)	Range (feet)	Average (feet)
Report	7.9 – 11	9.7

pH (DMRs=10)

Limit (su)	Range (su)	Average (su)
Report	5.5 – 6.1	n/a

8. IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has made the determination that the discharge from the Canton facility will not cause or contribute to the failure of the receiving water to meet the standards of its assigned classification and the existing and designated uses will be maintained and protected.

9. PUBLIC COMMENTS

Public notice of this application was made in the Sun Journal newspaper on or about December 10, 2010. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

10. DEPARTMENT CONTACTS

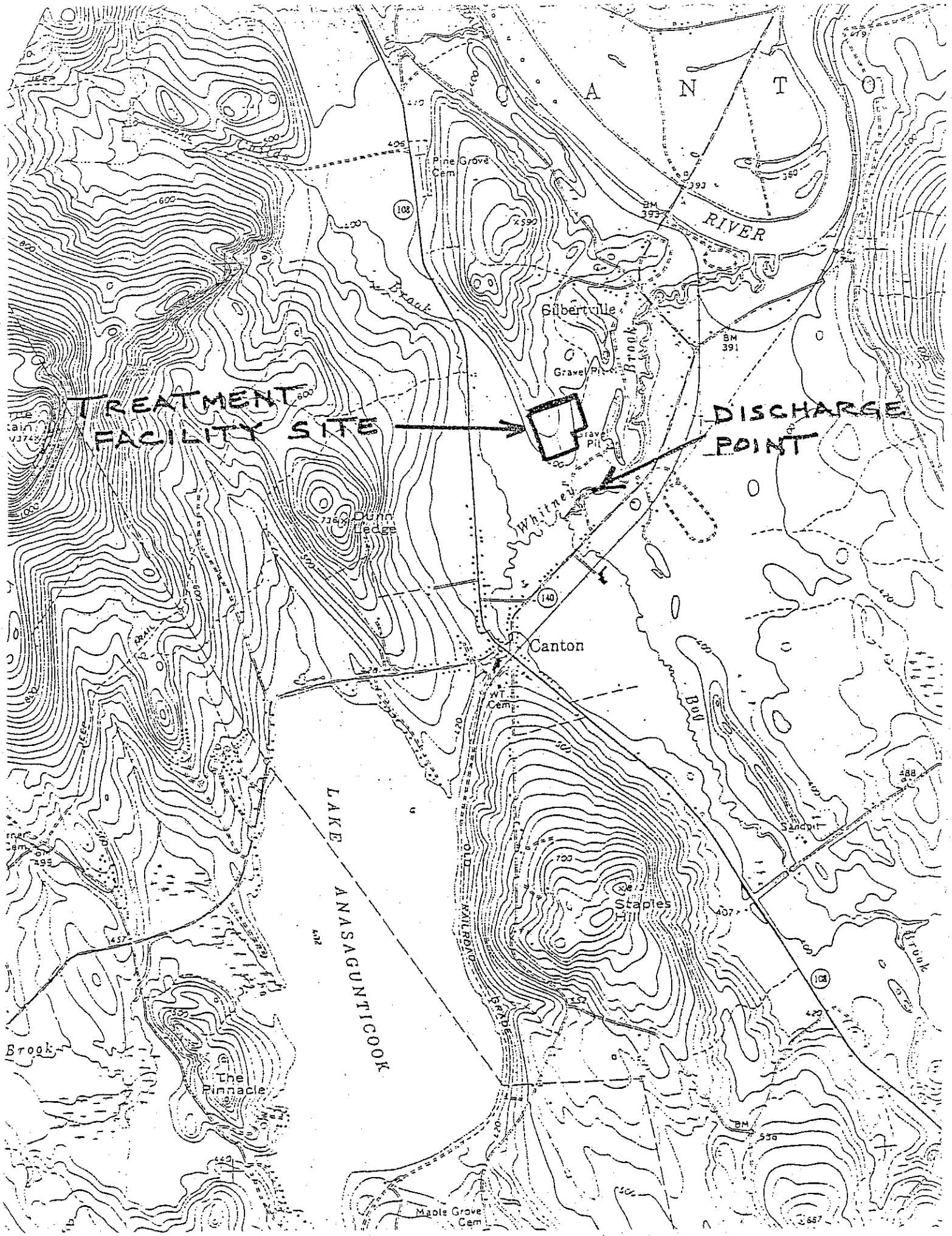
Additional information concerning this permitting action may be obtained from and written comments should be sent to:

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

11. RESPONSE TO COMMENTS

During the period of August 23, 2011, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

ATTACHMENT A


TREATMENT FACILITY SITE
DISCHARGE POINT
Canton
Gilbertville
Dunn Ledge
Staples Hill
The Pinnacle
LAKE ANASAGUNTICOOK
RIVER
Pine Grove Cem
Maple Grove Cem
Whitney Brook
Gravel Pit
Sandpit
OLD RAILROAD GRADE
108
140
BM 393
BM 391
BM 556

ATTACHMENT B

WET TEST REPORT

Data for tests conducted for the period

05/Jul/2006 - 05/Jul/2011

CANTON NPDES= ME0102067 Effluent Limit: Acute (%) = 1.897 Chronic (%) = 1.897

Species	Test	Percent	Sample date	Critical %	Exception	RP
TROUT	A_NOEL	100	11/12/2007	1.897		
TROUT	A_NOEL	100	11/09/2010	1.897		
TROUT	C_NOEL	50	11/09/2010	1.897		
WATER FLEA	A_NOEL	100	11/12/2007	1.897		
WATER FLEA	A_NOEL	50	11/09/2010	1.897		
WATER FLEA	C_NOEL	10	11/09/2010	1.897		

ATTACHMENT C

PRIORITY POLLUTANT DATA SUMMARY

Date Range: 05/Jul/2006-05/Jul/2011

Facility Name: **CANTON** NPDES: **ME0102067**

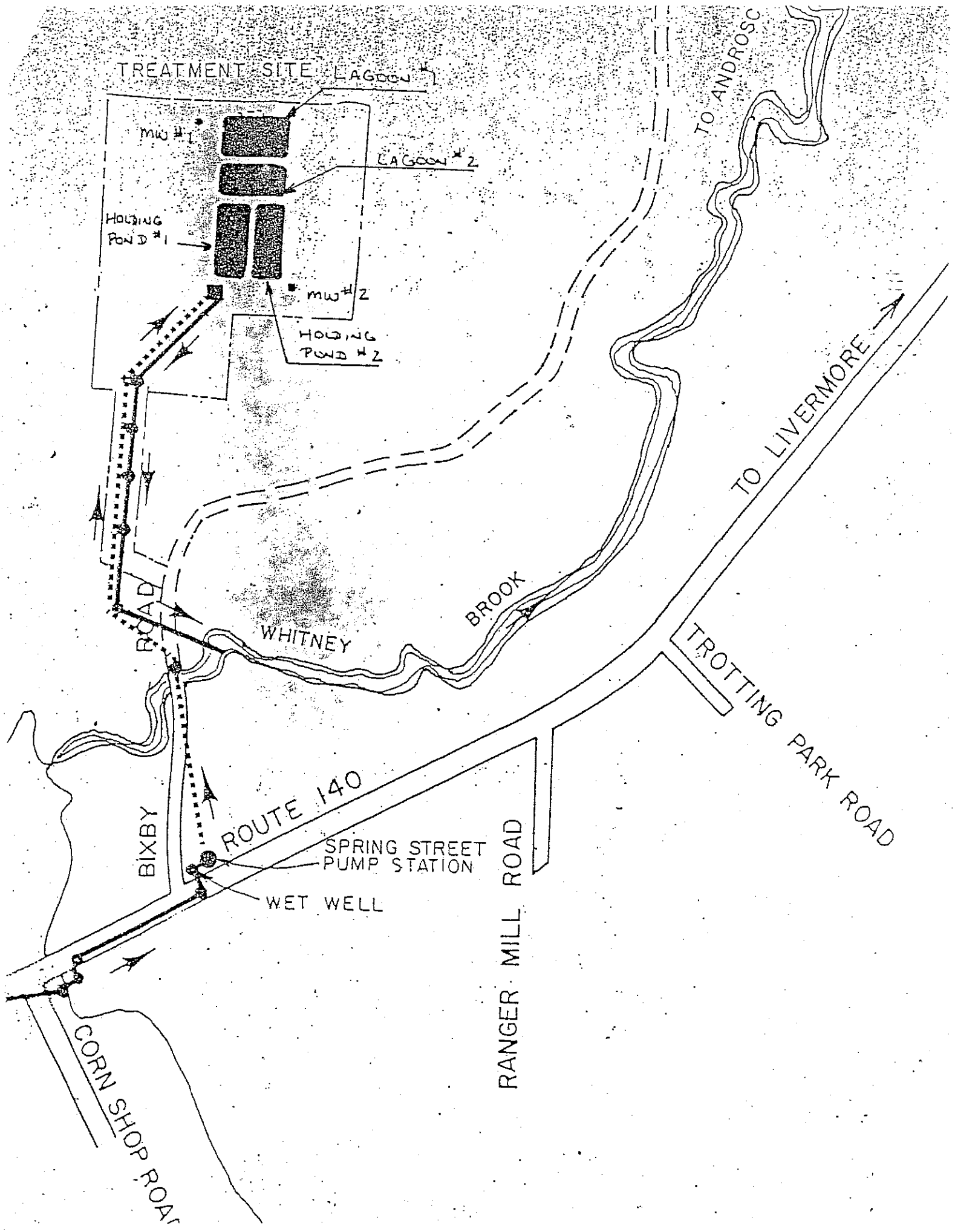
Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
11/12/2007	NR	NR	21	9	0	0	0	12	0	F	0
11/09/2010	0.37	0.37	133	13	28	46	25	10	11	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

ATTACHMENT D


TREATMENT SITE
LAGOON #1
LAGOON #2
MW #1
MW #2
HOLDING POND #1
HOLDING POND #2
TO ANDROSC
TO LIVERMORE
WHITNEY BROOK
ROAD
TROTTING PARK ROAD
BIXBY
ROUTE 140
SPRING STREET PUMP STATION
WET WELL
RANGER MILL ROAD
CORN SHOP ROAD

ATTACHMENT E

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.

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.