STATE OF MAINE

Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

Mr. Michael Caron
Maintenance Manager
Penobscot McCrum LLC
P.O. Box 229
Belfast, ME. 04914

November 19, 2012

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023043
Maine Waste Discharge License (WDL) Application #W004897-5O-F-R
Final Permit

Dear Mr. Caron:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **renewal** which was approved by the Department of Environmental Protection. Please read this permit/license renewal 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: Denise Behr, DEP/SMRO
Sandy Mojica, USEPA

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

DEPARTMENT ORDER
IN THE MATTER OF

PENOBSCOT MCCRUM LLC		)	MAINE POLLUTANT DISCHARGE
BELFAST, WALDO COUNTY, MAINE		)	ELIMINATION SYSTEM PERMIT
FOOD PROCESSING FACILITY		)	AND
ME0023043		)	WASTE DISCHARGE LICENSE
W004897-50-F-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*, Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of PENOBSCOT MCCRUM LLC (permittee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The permittee has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023043 / Maine Waste Discharge License (WDL) #W004897-50-E-R, which was issued by the Department on October 17, 2007, for a five-year term. The MEPDES Permit / WDL authorized the discharge of up to a monthly average flow of 0.1 million gallons per day (MGD) of secondary treated process wastewaters as well as the discharge of up to a daily maximum of 0.075 MGD of non-contact cooling water and condensates from a potato processing facility to the tidewaters of Belfast (Passagassawakeag River), Class SB, in Belfast, Maine.

PERMIT SUMMARY

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

1. Establishes water quality based mass limits for total copper as test results on file indicate the discharge from the permittee's facility has a reasonable potential to exceed the acute ambient water quality criteria for total copper.

2. Reduces the monitoring frequencies for most parameters limited for Outfalls #001 and #002 based on the permittee's history of compliance and a statistical evaluation for each parameter.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated October 19, 2012, 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 PENOBSCOT MCCRUM LLC to discharge a monthly average of 0.1 MGD of secondary treated process wastewaters and a daily maximum of 0.075 MGD of non-contact cooling water and condensates to the tidewaters of Belfast (Passagassawakeag River), Class SB, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

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

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

3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 4th DAY OF December, 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for Patricia W. Aho, Commissioner

Date of initial receipt of application September 24, 2012.

Date of application acceptance September 25, 2012.

Filed
DEC 5 2012
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection

This order prepared by Gregg Wood, Bureau of Land and Water Quality.

SPECIAL CONDITIONS
A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **secondary treated process wastewaters** from **OUTFALL # 001A** to Belfast Bay / Passagassawakeag River. Such discharges shall be limited and monitored by the permittee as specified below. The italicized numeric values bracketed in the table below and on the following pages are code numbers that Department personnel utilize to code Discharge Monitoring Reports (DMRs).

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	0.10 MGD *[03]*	Report MGD *[03]*	---	---	Continuous *[99/99]*	Recorder *[RC]*
BOD_5 *[00310]*	124 lb/day *[26]*	182 lb/day *[26]*	149 mg/L *[19]*	218 mg/L *[19]*	1/Month *[01/30]*	Composite *[24]*
TSS *[00530]*	124 lb/day *[26]*	182 lb/day *[26]*	149 mg/L *[19]*	218 mg/L *[19]*	1/Month *[01/30]*	Composite *[24]*
Settleable Solids *[00545]*	---	---	---	0.3 ml/L *[25]*	1/Week *[01/07]*	Grab *[GR]*
Oil & Grease(1) *[00552]*	---	---	---	15 mg/L *[19]*	2/Month *[02/30]*	Grab *[GR]*
Total Residual Chlorine(2) *[50060]*	---	---	---	0.2 mg/L *[19]*	3/Week *[03/07]*	Grab *[GR]*
pH (Std. Unit) *[00400]*	---	---	---	6.0 – 8.5 S.U. *[12]*	1/Day *[01/01]*	Grab *[GR]*
Copper (Total) *[01042]*	---	0.06 lb/day *[26]*	---	Report mg/L *[19]*	1/Year *[01/YR]*	Composite *[24]*
Mercury (Total) (3) *[71900]*	---	---	50.8ng/L *[3M]*	76.3 ng/L *[3M]*	1/Year *[01/YR]]*	Grab *[GR]*
Production (4) *[00145]*	Report (tons/day) *[2N]*	Report (tons/day) *[2N]*	---	---	1/Day *[01/01]*	Calculate *[CA]*

SPECIAL CONDITIONS

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

OUTFALL #001A

SURVEILLANCE LEVEL - Beginning upon issuance of this permit and lasting through 24 months prior to permit expiration.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity[5] **Chronic – NOEL** *Arbacia punctulata* (Sea urchin) [TBH3A]	---	---	---	6.7 % [23]	1/Year [01/YR]	Composite [24]

SCREENING LEVEL - Beginning 24 months prior to permit expiration and lasting through 12 months prior to 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[5] **Acute – NOEL** *Mysidopsis bahia* (Mysid Shrimp) [TDM3E]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Chronic – NOEL *Arbacia punctulata* (Sea urchin) [TBH3A]	---	---	---	6.7 % [23]	1/Year [01/YR]	Composite [24]
Analytical Chemistry[6,8] [51168]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority Pollutant[7,8] [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

SPECIAL CONDITIONS

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

OUTFALL #001A

SURVEILLANCE LEVEL - Beginning 12 months prior to permit expiration and lasting through permit expiration.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity[5]						
Chronic – NOEL						
Arbacia punctulata (Sea urchin) *[TBH3A]*	---	---	---	6.7 % *[23]*	1/Year *[01/YR]*	Composite *[24]*

2. The permittee is authorized to discharge **non-contact cooling waters and condensates** from **OUTFALL # 002A** to Belfast Bay / Passagassawakeag River. Such discharges shall be limited and monitored by the permittee as specified below.

OUTFALL #002

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	Report MGD *[03]*	0.075 MGD *[03]*	---	---	1/Month *[01/30]*	Estimate *[ES]*
Temperature *[00011]* (June 1 – September 1)	---	---	---	Report°F *[15]*	1/Week *[01/07]*	Measure *[MS]*
pH (Standard Units) *[00400]*	---	---	---	6.0 – 8.5 S.U. *[12]*	1/Week *[01/07]*	Grab *[GR]*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes:

Effluent sampling location. Effluent samples for all parameters shall be collected after the last treatment process prior to discharge to the receiving water. Any change in sampling location(s) must be reviewed and approved by the Department in writing. Any change in sampling location(s) must be reviewed and approved by the Department in writing. Sampling and analysis must be conducted in accordance with; a) methods approved by 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 a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. See **Attachment A** of this permit for a list of the Department's RLs. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for ach 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. **Oil & Grease** – There shall be at least 14 days between sampling events.

2. **Total residual chlorine (TRC)** – Limitations and monitoring requirements for TRC are applicable any time elemental chlorine or chlorine-based compounds are being utilized at the facility in a way in which they may enter the waste-stream and receiving water. The permittee shall utilize an EPA-approved test method capable of bracketing the TRC limitations specified in this permitting action.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes:

3. **Mercury** – All mercury sampling (1/Year) required to determine compliance with interim limitations established pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001) shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses shall be conducted in accordance with EPA Method 1631E, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment B,** *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

   The limitation in the monthly average column in table Special Condition A of this permit is defined as the arithmetic mean of all the mercury tests ever conducted for the facility utilizing sampling Methods 1669 and analysis Method 1631E.

4. **Production** - The permittee shall report production as tons/day of raw potatoes processed.

5. **Whole Effluent Toxicity (WET)** - Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the acute and chronic critical thresholds of 6.7% and 0.67% respectively), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC.

   A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematic inverse of the applicable acute and chronic dilution factors of 15:1 and 151:1 respectively.

   a. **Surveillance level testing** – Beginning upon issuance of this permit and lasting through 24 months prior to permit expiration and commencing again 12 months prior to permit expiration and lasting through permit expiration, the permittee shall conduct surveillance level testing of once per year (1/Year) on the sea urchin. Tests shall be conducted in a different calendar quarter of each year. Pursuant to 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, surveillance level testing on the mysid shrimp is waived.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Footnotes:

b. **Screening level testing** - Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level WET testing at a minimum frequency of once per year (1/Year). Acute testing shall be conducted on the mysid shrimp and chronic testing shall be conducted on the sea urchin.

WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds of 6.7% and 0.67%, respectively. Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following U.S.E.P.A. methods manuals:

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

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

The permittee is also required to analyze the effluent for the parameters specified in the analytical chemistry section of the form in **Attachment A** of this permit each time a WET test is performed. See **Attachment C** of this permit for a copy of the Department's WET report form.

6. **Analytical chemistry** – Refers to a suite of chemical tests listed in **Attachment A** of the permit.

a. **Surveillance level testing** - Pursuant to 06-096 CMR 530, surveillance level testing is waived for this facility.

b. **Screening level testing** - Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter).

SPECIAL CONDITIONS

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

Footnotes:

7. **Priority pollutant testing** – Refers to a suite of chemical tests listed in **Attachment A** of the permit.

   a. **Surveillance level** - Pursuant to 06-096 CMR 530 testing is not required pursuant to 06-096 CMR 530 (2)(D).

b. **Screening level testing** - Beginning 24 months prior to permit expiration and lasting through 12 months prior to 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).

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

   Test results must be submitted to the Department not later than the next DMR required by the permit provided, however, that the permittee may review the toxicity reports for up to 10 business days 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, *Surface Water Quality Criteria For Toxic Pollutants*. For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

SPECIAL CONDITIONS

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 for 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 for the classification of the receiving waters.

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

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

C. TREATMENT PLANT OPERATOR

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

D. NOTIFICATION REQUIREMENT

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

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

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

   a. The quality or 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

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 September 25, 2012; 2) the terms and conditions of this permit; and 3) only from Outfall #001A and Outfall #002A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

F. OPERATION & MAINTENANCE (O&M) PLAN

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

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

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

G. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time, and with notice to the permittee, modify this permit to: (1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional effluent or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information including, but not limited to, new information from ambient water quality studies of the receiving waters.

SPECIAL CONDITIONS

H. MONITORING AND REPORTING

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

Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333

Alternatively, if 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.

I. 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

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

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

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

Date Sample Collected _____ Date Sample Analyzed _____

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

Last Revision - April 25, 2012

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

MARINE AND ESTUARY VERSION

Please see the footnotes on the last page.

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

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

	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	5									
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	20									
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	5									
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	5									
BN	BENZO(G,H,I)PERYLENE	5									
BN	BENZO(K)FLUORANTHENE	5									
BN	BIS(2-CHLOROETHOXY)METHANE	5									
BN	BIS(2-CHLOROETHYL)ETHER	6									
BN	BIS(2-CHLOROISOPROPYL)ETHER	6									
BN	BIS(2-ETHYLHEXYL)PHTHALATE	10									
BN	BUTYLBENZYL PHTHALATE	5									
BN	CHRYSENE	5									
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									
BN	FLUORANTHENE	5									

Maine Department of Environmental Protection

WET and Chemical Specific Data Report Form

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

BN	FLUORENE	5									
BN	HEXACHLOROBENZENE	5									
BN	HEXACHLOROBUTADIENE	5									
BN	HEXACHLOROCYCLOPENTADIENE	10									
BN	HEXACHLOROETHANE	5									
BN	INDENO(1,2,3-CD)PYRENE	5									
BN	ISOPHORONE	5									
BN	N-NITROSODI-N-PROPYLAMINE	10									
BN	N-NITROSODIMETHYLAMINE	5									
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									
V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									

Maine Department of Environmental Protection

WET and Chemical Specific Data Report Form

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

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

Notes:

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

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

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

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

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

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

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

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

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

Comments:

ATTACHMENT B

Maine Department of Environmental Protection

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

ATTACHMENT C

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS

Facility Name _____ MEPDES Permit # _____

Pipe # _____

Facility Representative _____ Signature _____

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

Facility Telephone # _____ Date Collected _____ (mm/dd/yy) Date Tested _____ (mm/dd/yy)

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

	mysid shrimp	sea urchin
A-NOEL		
C-NOEL		

Effluent Limitations

A-NOEL	
C-NOEL	

Data summary

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

place * next to values statistically different from controls

Salinity Adjustment

brine	
sea salt	
other	

Reference toxicant

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

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: October 19, 2012

MEPDES PERMIT NUMBER: **ME0023043**
MAINE WDL NUMBER: **W004897-50-F-R**

NAME AND ADDRESS OF APPLICANT:

PENOBSCOT McCRUM LLC
P.O. Box 229
Belfast, Maine 04915

COUNTY: **Waldo County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

32 Pierce Street
Belfast, Maine

RECEIVING WATER/CLASSIFICATION: **Tidewaters of Belfast**
Passagassawakeag River, Class SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Michael Caron**
Maintenance Manager
(207) 338-4360 ext 225
e-mail: mcaron@pmcllc.org

1. APPLICATION SUMMARY

a. Application: The Penobscot McCrum LLC (permittee hereinafter) has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023043 / Maine Waste Discharge License (WDL) #W004897-50-E-R, which was issued by the Department on October 17, 2007, for a five-year term. The MEPDES Permit / WDL authorized the discharge of up to a monthly average flow of 0.1 million gallons per day (MGD) of secondary treated process wastewaters as well as the discharge of up to a daily maximum of 0.075 MGD of non-contact cooling water and condensates from a potato processing facility to the tidewaters of Belfast (Passagassawakeag River), Class SB, in Belfast, Maine. See **Attachment A** of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont'd)

b. Source Description: The permittee processes potatoes by baking, blanching and frying them into frozen food products. The water used in permittee's processing activities is obtained from the Belfast Water District. Current production at the facility is reported by the permittee in the 9/24/12 permit application as consisting of an average of approximately 104,000 pounds of raw potatoes per day, a maximum of 170,000 pounds per day, and a projected annual total of 26,000,000 pounds per year in production of various products.

Most of the wastewater generated in the manufacturing process is the result of equipment and floor washdown that takes place hourly with additional mid-day and end-of-day washdowns. This wastewater is discharged to the receiving water via Outfall #001A. The permittee has provided the Department with a list of chemicals used for sanitation or disinfection during production and clean-up operations. Additional wastewater consists of flow from the oven room, which is the result of condensed moisture drawn from the potatoes, condensate from an air compressor, and condensate from the freezer equipment in the freezer/defrost holding room. The make-up water for air and refrigeration compressor units consists of potable water from the Belfast Water District. This wastewater is discharged to the receiving water via Outfall #002A. All potatoes are washed at the permittee's Washburn facility and then transported to the permittee's Belfast facility, which reduces the volume of wastewater at this facility.

Potato waste materials are trucked to farms for utilization. All sanitary wastewaters generated at the facility are conveyed to the Belfast wastewater treatment facility, which is permitted separately under MEPDES permit #ME0101532.

c. Wastewater Treatment: The permittee's water useage is as represented in Fact Sheet **Attachment B.** The permittee operates a sequencing batch reactor (SBR) biological wastewater treatment facility to provide treatment of all processing wastewater. The wastewater facility provides a secondary level of treatment via settling in two lamellae clarifiers and one SBR unit. In 2006, to address previous oil and grease effluent limit exceedences, the permittee supplemented its facility infrastructure with the installation of two oil and grease skimmer units, one in the blanch room and one in the treatment plant's lamellae clarifiers. The permittee discharges treated processing wastewater through Outfall #001A, two to three times per 24-hour period. Each discharge event consists of approximately 15,000 gallons of wastewater, for a total average discharge of approximately 45,000 gallons per day (GPD) and a maximum discharge of approximately 70,000 GPD. Outfall #001A consists of a 12-inch diameter pipe that outlets into Belfast Bay in a depth of approximately 10-feet at mean low water. The permittee discharges potato moisture condensate, non-contact cooling water, and air and refrigeration condensate through Outfall #002A, a 12-inch diameter culvert that runs beneath an

1. APPLICATION SUMMARY (cont'd)

adjacent railroad track and outlets to the ground surface, with discharged flows eventually reaching the intertidal portion of Belfast Bay. The permittee reports that the Outfall #002A discharge is a continuous discharge consisting of an average of 300 to 1,000 GPD and a maximum discharge of approximately 1,000 GPD. DMR data indicates significantly greater volumes, as described in Fact Sheet Section 6a.

2. PERMIT SUMMARY

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

1. Establishes water quality based mass limits for total copper as test results on file indicate the discharge from the permittee's facility has a reasonable potential to exceed the acute ambient water quality criteria for total copper.

2. Reduces the monitoring frequencies for most parameters limited for Outfalls #001 and #002 based on the permittee's history of compliance and a statistical evaluation for each parameter.

b. Regulatory history: The most recent relevant regulatory actions include the following:

September 14, 1983 – The Department issued WDL #4897 for a five-year term.

December 12, 1986 – The Department issued a modification of WDL #4897 which increased the daily maximum flow limitation from 0.10 MGD to 0.20 MGD. The flow increase was necessary to accommodate consolidation of the licensee's Spring Street and Pierce Street plants.

July 21, 1987 – The USEPA issued NPDES permit #ME0023043 for a five year term.

May 24, 1989 – The licensee (then Penobscot Frozen Foods (PFF)) and the Department entered into an Administrative Consent Agreement (CA) and Enforcement Order for numerous license violations for BOD_5, TSS, settleable solids and oil & grease. The Order required PFF to construct a biological wastewater treatment facility.

July 12, 1989 – The Department issued WDL #W004897-42-B-R for a five year term.

March 1990 – As stipulated by the 5/24/89 CA, PFF completed the construction of, and had operational, a sequencing batch reactor (SBR) biological wastewater treatment facility.

August 27, 1993 - The licensee applied for renewal of WDL #W004897-42-B-R, but withdrew the application on September 13, 1993.

2. PERMIT SUMMARY (cont'd)

February 17, 1995 – The Department issued a letter to the licensee stating that the process wastewater discharge from the PFF facility was not subject to whole effluent toxicity (WET) or priority pollutant (chemical specific) testing stipulated in a newly promulgated Department regulation, Chapter 530.5, *Surface Water Toxics Control Program*, dated October 12, 1994.

June 1, 2000 – Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL # W004897-42-B-R.

August 21, 2001 – The Maine Superior Court issued a Consent Order to PFF for violations of the State's water quality laws and WDL #W-004897-42-B-R which was issued by the Department on July 12, 1989. The Consent Order required PFF to submit a comprehensive facility plan for the renovation, expansion or replacement of the existing wastewater treatment facility and pay a monetary penalty for the violations.

July 10, 2002 - The Department issued WDL #W-004897-5O-C-R / MEPDES Permit #ME0023043 for the discharge of up to a monthly average of 0.1 MGD and a daily maximum of 0.15 MGD of secondary treated potato processing wastewaters as well as the discharge of up to a daily maximum of 0.075 MGD of non-contact cooling water to the tidewaters of Belfast / Passagassawakeag River. The Permit/WDL was issued for a five-year term.

November 9, 2004 - The Department issued WDL #W-004897-5O-D-T / MEPDES Permit #ME0023043, transferring the MEPDES Permit / Maine WDL from PFF to Penobscot McCrum, LLC (PM LLC).

March 8, 2006 – The Department informed PM LLC via letter that changes being undertaken to the Surface Water Toxics Control Program pursuant to the adoption of Department rule Chapter 530 would likely result in toxicity testing requirements with the next MEPDES Permit / Maine WDL renewal.

October 17, 2007 – The Department issued combination WDL #W-004897-5O-E-R / MEPDES Permit #ME0023043 for a five-year term.

February 6, 2012 – The Department issued a modification of WDL #W-004897-5O-E-R / MEPDES Permit #ME0023043 for reduction of mercury testing frequency from 2/Year to 1/Year based on *Certain deposits and discharges prohibited*, 38 M.R.S.A., § 420 sub-§1-B(F).

2. PERMIT SUMMARY (cont'd)

September 24, 2012 - The permittee submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023043 / Maine Waste Discharge License (WDL) #W004897-50-E-R, which was issued by the Department on October 17, 2007,

3. CONDITIONS OF PERMITS

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

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A. 469 classifies the tidewaters of Belfast as a Class SB waterway. Maine Law, 38 M.R.S.A., Section 465-B(2) describes the standards for classification of Class SB waters as follows;

Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.

The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.

4. RECEIVING WATER QUALITY STANDARDS (cont'd)

Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.

5. RECEIVING WATER QUALITY CONDITIONS:

The State of Maine 2010 *Integrated Water Quality Monitoring and Assessment Report* (DEPLW0817), prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act includes the receiving water in the designation *Belfast Bay* (Waterbody ID 722-23, DMR Area 32) listed in Category 5-B-1, Estuarine and Marine Waters Impaired only by Bacteria (TMDL Required). The listing identifies a 4,172 acre (6.52 sq.mi.) segment of Class SB water, with sources of "*STP; OBDs; Boats; Elevated fecals; Nonpoint Source*", and with the sample year indicated as "*current*".

The Maine Department of Marine Resources (MeDMR) assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The MeDMR has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality. The MeDMR traditionally closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (in-stream thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions. In addition, the MeDMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Pursuant to MeDMR Regulation 95.08B, Closed Area No. 32, Belfast Bay, Belfast, as of January 3, 2000, "*because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of Belfast Bay, Waldo County, westerly of a line drawn from the most southern tip of Moose Point, Searsport, southerly to a red painted post located at the northernmost point on the south side of Kelly Cove, Northport*".

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

As noted in the previous permitting action, "*Belfast Bay has been closed to the harvesting of shellfish since March 4, 1983*" and "*all sanitary waste waters generated at the* (PM LLC) *facility are conveyed to the City of Belfast's waste water treatment facility*".

The Department has no information that the permittee's facility causes or contributes to non-attainment conditions in the receiving water listed in the 303(d)/305(b) report or to the closure of the shellfish harvesting area. If it is determined in the future that the permittee's facility causes or contributes to non-attainment conditions in the receiving water, this permitting action may be reopened pursuant to Permit Special Condition H and effluent limitations, monitoring and operational requirements, and/or wastewater treatment requirements adjusted accordingly.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS:

As was done in the previous permitting action, this permitting action establishes effluent limitations and monitoring requirements for two processes and outfalls: Outfall #001A for process wastewaters and Outfall #002A for non-contact cooling water from air and refrigeration compressor units and condensates.

Outfall #001A – Process Waste Waters

a. Flow: The previous permitting action carried forward a monthly average flow limitation of 0.10 MGD along with a daily maximum reporting requirement. Flow monitoring was required continuously for Outfall #001A.

A review of the monthly Discharge Monitoring Report (DMR) data for Outfall #001A for the period January 2008 through April 2012 indicates the values have been reported as follows:

Flow (DMRs = 52)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	0.10	0.0338 – 0.0663	0.048
Daily maximum	Report	0.0524 – 0.1040	0.092

The monthly average limitation of 0.10 MGD and the continuous monitoring requirement are being carried forward in this permitting action.

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

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

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

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

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

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

As indicated in Fact Sheet Section 6 of the previous permitting action, the Department utilized facility plan and profile information provided by the permittee and calculations based on interpretation of the CORMIX model whose parameters include facility permitted flows, outfall/diffuser configuration (pipe 12" in diameter with no diffuser); and in-stream mixing characteristics (based on 15 minute travel time) determined from modeling and/or field to establish applicable dilution factors (that are being carried forward in this permitting action) as follows::

Acute = 15:1 Chronic = 151:1 Harmonic mean [(1)] = 453:1

Footnote:

(1) Pursuant to Department rule Chapter 530, "*Surface Water Toxics Control Program*", §4(a)(2)(c), the harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by a factor of three (3).

Dilution information only applies to Outfall #001A.1

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

c. Production: The previous permitting action required reporting of monthly average and daily maximum production in tons/day of raw potatoes processed, which is being carried forward in this permitting action. At the time of the previous permitting action, facility DMR data indicated a mean monthly average production of approximately 65 tons/day and a mean daily maximum production of 85 tons/day.

The Department's review of DMR data for PM LLC for the period of January 2008 through April 2012 indicates production values have been reported as follows:

Production (DMRs = 52)

Value	Limit (tons/day)	Range (tons/day)	Mean (tons/day)
Monthly Average	Report	27 - 78	58
Daily maximum	Report	46 - 106	78

The Department considers the 65 tons/day utilized in the previous permitting action to be representative of normal production at the permittee's facility. The monthly average and daily maximum production reporting requirements are being carried forward in this permitting action.

d. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS) – The previous permitting action established monthly average and daily maximum mass limits for BOD_5 and TSS based on State of Maine technology based guidelines developed in 1976 for the potato processing industry. The guidelines established production based limits for BOD_5 and TSS of 0.95 lb/1000 lb (1.9 lbs/ton) of raw potatoes processed as the monthly average limit and 1.4 lb/1000 lb (2.8 lbs/ton) of raw potatoes processed as the daily maximum limit.

Per USEPA guidance, the average actual production is to be used for development of National Effluent Guideline based effluent limits. At the time of the previous permitting action the Department's review of DMR data for the period of March 2004 through March 2007 indicated a mean monthly average production of 65 tons/day during the three year period. Based on this, technology based mass limits were calculated as follows:

Monthly average: 65 tons/day (1.9 lbs/ton) = 124 lbs/day
Daily Maximum: 65 tons/day (2.8 lbs/ton) = 182 lbs/day

The previous permitting action established technology based concentration limits from the mass limits calculated above, monthly average flow limit, and a conversion factor of 8.34 lbs/gallon, as follows:

Monthly average: 124 lbs/day / (0.1 MGD x 8.34 lbs/gal) = 149 mg/L
Daily Maximum: 182 lbs/day / (0.1 MGD x 8.34 lbs/gal) = 218 mg/L

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

The DMR data for the period of January 2008 through April 2012 indicates values were reported as follows;:

BOD Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	124	0.5 – 27	5
Daily Maximum	182	1.0 – 48	9

BOD Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	149	4 – 41	10
Daily Maximum	218	5 - 62	17

TSS Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	124	1 - 40	7
Daily Maximum	182	1 – 152	14

TSS Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	149	4 – 80	15
Daily Maximum	218	8 – 300	29

On April 19, 1996, the USEPA issued a guidance document entitled, "*Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies*" (USEPA 1996) as the basis for determining reduced monitoring frequencies. The guidance document was issued with the goal of reducing unnecessary reporting while at the same time maintaining a high level of environmental protection for facilities that have a good compliance record and pollutant discharges at levels below permit requirements. Monitoring requirements are not considered effluent limitations under section 402(o) of the Clean Water Act and therefore, anti-backsliding prohibitions would not be triggered by reductions in monitoring frequencies

The EPA Guidance indicates "*...the basic premise underlying a performance-based reduction approach is that maintaining a low average discharge relative to the permit limits results in a low probability of the occurrence of a violation for a wide range of sampling frequencies.*" The monitoring frequency reductions in EPA's guidance were designed to maintain approximately the same level of reported violations as that experienced with the existing baseline sampling frequency in the permit. To establish baseline performance the long term average (LTA) discharge rate for each parameter is calculated using the most recent two-year data set of monthly average effluent data representative of current operating conditions. The LTA/permit limit ratio is calculated

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

and then compared to the matrix in Table I of EPA's guidance to determine the potential monitoring frequency reduction. It is noted Table I of EPA's guidance was derived from a probability table that used an 80% effluent variability or coefficient of variation (cv). The permitting authority can take into consideration further reductions in the monitoring frequencies if the actual cv for the facility is significantly lower than the default 80% utilized by the EPA in Table I.

In addition to the parameter-by-parameter performance history via the statistical evaluation cited above, the EPA recommends the permitting authority take into consideration the facility enforcement history and the parameter-by-parameter compliance history and factors specific to the State or facility. If the facility has already been given monitoring reductions due to superior performance, the baseline may be a previous permit.

Though EPA's 1996 Guidance recommends evaluation of the most current two-years of effluent data for a parameter, the Department is considering 52 months of data (January 2008 – April 2012).

A review of the monitoring data for BOD and TSS indicates the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as follows:

BOD

Long term average = 5 lbs/day
Monthly average limit = 124 lbs/day
Current monitoring frequency = 1/Week

$$\text{Ratio} = \frac{5 \text{ lbs/day}}{124 \text{ lbs/day}} = 4\%$$

According to Table I of the EPA Guidance, a 1/Week monitoring requirement can be reduced to 1/2 months. The Department is making a best professional judgment that a monitoring frequency of 1/2 months is not sufficient to determine on-going compliance at the facility. However, the Department is willing to reduce the monitoring frequency for BOD to 1/Month in this permitting action.

TSS

Long term average = 7 lbs/day
Monthly average limit = 124 lbs/day
Current monitoring frequency = 1/Week

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

Ratio = 7 lbs/day = 6%
124 lbs/day

According to Table I of the EPA Guidance, a 1/Week monitoring requirement can be reduced to 1/2 months. As with BOD, the Department is making a best professional judgment that a monitoring frequency of 1/2 months is not sufficient to determine on-going compliance at the facility. However, the Department is willing to reduce the monitoring frequency for TSS to 1/Month in this permitting action.

e. Settleable Solids – The previous permitting action carried forward a daily maximum technology based concentration limit of 0.3 ml/L. This limit is considered Best Professional Judgement (BPJ) of Best Practicable Treatment (BPT) for secondary treated wastewaters and is being carried forward in this permitting action as well.

The Department's review of DMR data for the period of January 2008 through April 2012 indicates values have been reported as follows:

Settleable solids (DMRs = 52)

Value	Limit (ml/L)	Range (ml/L)	Mean (ml/L)
Daily maximum	0.3	<0.3 - <0.3	0.15

Because the data has been reported as <0.3 for the entire monitoring period, the long term average would be one half of the reporting limit of 0.3 ml/L or 0.15 ml/L.

Settleable solids

Long term average = 0.15 ml/L
Daily maximum limit = 0.3 ml/L
Current monitoring frequency = 3/Week

Ratio = 0.15 ml/L = 50%
0.3 ml/L

According to Table I of the EPA Guidance, a 3/Week monitoring requirement can be reduced to 2/Week. Based on the Department's compliance inspector's knowledge of the settleable solids data and compliance history, the Department is making a best professional judgment that a monitoring frequency of 1/Week is sufficient to determine on-going compliance at the facility. Therefore, the Department is reducing the monitoring frequency for settleable solids to 1/Week in this permitting action.

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

f. Oil & Grease – The previous permitting action established a daily maximum concentration limit of 15 mg/L for oil and grease, based on BPJ of BPT and water quality based limit necessary so as not to cause a visible oil sheen on the surface of the receiving waters (Permit Special Condition B(1).

It is noted that in June 2006, the permittee installed two oil and grease skimmer units, one in the blanch room and one in the treatment plant's lamellae clarifiers. A review of the DMR data for Outfall #001A for the period January 2008 through April 2012 indicates that the daily maximum values have been reported as follows:

Oil & Grease (DMRs = 52)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	15	1 - 10	3

Oil & Grease

Long term average = 3 mg/L
Monthly average limit = 15 mg/L
Current monitoring frequency = 2/Week

Ratio = $\frac{5 \text{ mg/L}}{15 \text{ mg/L}} = 33\%$

According to Table I of the EPA Guidance, a 2/Week monitoring requirement can be reduced to 2/ month. Therefore, the Department is reducing the monitoring frequency for oil & grease to 2/Month in this permitting action.

g. Total Residual Chlorine (TRC) – The previous permitting action established a daily maximum BPT water quality based limit of 0.2 mg/L for total residual chlorine. Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. The Department imposes the more stringent of the water quality or technology based limits in permitting actions. 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	0.013 mg/L	0.0075 mg/L	15:1	151:1	0.2 mg/L	1.1 mg/L

Example calculation: Acute – 0.013 mg/L (15) = 0.2 mg/L

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

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine based compounds or utilize such compounds so that they may enter the waste-stream and receiving water. The calculated acute water quality based limit of 0.2 mg/L is more stringent than the BPT limit of 1.0 mg/L, thus the daily maximum limit of 0.2 mg/L is being carried forward in this permitting action. Limitations and monitoring requirements for TRC are applicable any time elemental chlorine or chlorine-based compounds are being utilized at the facility in a way in which they may enter the waste-stream and receiving water.

A review of the DMR data for Outfall #001A for the period January 2008 through April 2012 indicates that the daily maximum values have been reported as follows:

Total residual chlorine (DMRs = 52)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily maximum	0.20	0.01 – 0.16	0.09

Total residual chlorine

Long term average = 0.09 mg/L
Monthly average limit = 0.2 mg/L
Current monitoring frequency = 1/Day

Ratio = $\frac{0.09 \text{ mg/L}}{0.20 \text{ mg/L}}$ = 45%

According to Table I of the EPA Guidance, a 1/Day monitoring requirement can be reduced to 3/Week. Therefore, the Department is reducing the monitoring frequency for total residual chlorine to 3/Week in this permitting action.

h. pH – The previous permitting action established a technology based pH range limit of 6.0-8.5 standard units along with a 1/Day monitoring requirement for Outfall #001A based on a Department best professional judgment of best practicable treatment.

The Department reviewed DMR data for PM LLC for the period of January 2008 through April 2012 indicates values have been reported as follows.

pH (DMRs = 52)

Value	Limit (su)	Minimum (su)	Maximum (su)
Range	6.0 – 8.5	6.94	7.9

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

i. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemical Testing:

Maine law, 38 M.R.S.A., §414-A and §420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. Department rule 06-096 CMR Chapter 584, Surface *Water Quality Criteria for Toxic Pollutants*, sets 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, are included in this permit in order to fully characterize the effluent. WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health AWQC as established in Chapter 584.

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

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

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

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

Surveillance level testing - Beginning upon issuance of the permit and lasting through 24 months prior to permit expiration.

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

Screening level testing - Beginning 24 months prior to permit expiration and lasting through 12 prior to permit expiration and every five years thereafter.

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

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

Department rule Chapter 530(D)(3)(b) states in part, *Dischargers in Levels III and IV may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*

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

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

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

WET evaluation

On 6/5/12, the Department conducted a statistical evaluation on the most recent 60 months of WET data that indicates that the discharge has two data points (each 0.7%) that have a reasonable potential (RP) to exceed the critical chronic ambient water quality thresholds (0.68 – mathematical inverse of the chronic dilution factor 151:1. As a result, this permit is establishing a C-NOEL of 0.7% for the sea urchin along with a monitoring frequency of 1/Year for the first three years of the term of the permit which is equivalent to a routine surveillance level monitoring frequency.

As for the mysid shrimp, there are no test results on file that exceeed or have a reasonable potential exceed the critical acute ambient water quality threshold. As a result, the permittee meets the surveillance level monitoring frequency waiver criteria for the mysid shrimp found at Department rule Chapter 530(D)(3)(b). Therefore, this permit is establishing a requirement for the permittee to only conduct screening level testing for both the mysid shrimp beginning 24 months prior to permit expiration and lasting through 12 month prior to the expiration date of this permit and every five years thereafter.

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 evaluation

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 no information information on the background levels of metals in the water column in the tidewaters of Belfast (Passagassawakeag River), Class SB, 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.

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

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

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

Chapter 530 §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.

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

Chapter 530 §(3)(D)(1) states "*For specific chemicals, effluent limits must be expressed in total quantity that may be discharged and in effluent concentration. In establishing concentration, the Department may increase allowable values to reflect actual flows that are lower than permitted flows and/or provide opportunities for flow reductions and pollution prevention provided water quality criteria are not exceeded. With regard to concentration limits, the Department may review past and projected flows and set limits to reflect proper operation of the treatment facilities that will keep the discharge of pollutants to the minimum level practicable.*" However, in May 2012, Maine law 38 M.R.S.A. §464, ¶¶ K was enacted which reads as follows, "*Unless otherwise required by an applicable effluent limitation guideline adopted by the department, any limitations for metals in a waste discharge license may be expressed only as mass-based limits.*" There are no applicable effluent limitation guidelines adopted by the Department or the USEPA for metals from a facility like the permittee's. Therefore, concentration limits for pollutants of concern identified in 6/5/12 statistical evaluation that exceed or have a reasonable potential to exceed applicable ambient water quality criteria are not being established in this permitting action.

As with WET test results, the Department conducted a statistical evaluation on 6/5/12 (report ID #454) on the most recent 60-months of analytical chemistry and priority pollutant data on file at the Department. The statistical evaluation indicates the permittee's facility has test results that have a reasonable potential to exceed the acute AWQC for copper. According to the 6/5/12 statistical evaluation, copper is to be limited based on the individual allocation method due to the fact the discharge is to a estuarine waterbody.

Individual allocation

In the individual allocation, the Department continues to utilize the formula it has used in permitting actions since October 2005 taking into consider background (10% of AWQC) and a reserve (15% of AWQC). The formula is as follows:

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

Mass limit = (EOP concentration in mg/L)(8.34 lbs/gal)(Permit flow limit in MGD)

Copper

Acute AWQC = 5.78 ug/L
Acute dilution factor = 15.0:1

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

EOP = [15 x 0.75 x 5.78 ug/L] + [0.25 x 5.78 ug/L] = 66.5 ug/L

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

Based on a permitted flow of 0.10 MGD, EOP mass limits are as follows:

$$\frac{(66.5 \text{ ug/L})(8.34)(0.10 \text{ MGD})}{1{,}000 \text{ ug/mg}} = \textbf{0.06 lbs/day}$$

As a result, this permit is establishing a daily maximum mass limit of 0.06 lbs/day for total copper along with a monitoring frequency of 1/Year for the first three years of the term of the permit which is equivalent to a routine surveillance level monitoring frequency.

As for the remaining parameters tested to date, there are no test results on file that exceeed or have a reasonable potential to exceed the critical acute, chronic or human health ambient water quality thresholds. As a result, the permittee meets the surveillance level monitoring frequency waiver criteria found at Department rule Chapter 530(D)(3)(b). Therefore, this permit is establishing a requirement for the permittee to only conduct screening level testing for both analytical chemistry and priority pollutant testing beginning 24 months prior to permit expiration and lasting through 12 month prior to the expiration date of this permit and every five years thereafter.

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.

j. Mercury – On June 1, 2000, Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL # W004897-42-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 50.8 parts per trillion (ppt) and 76.3 ppt, respectively, and a minimum monitoring frequency requirement of 2 tests per year for mercury.

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 November 2007 through the present indicates the permittee has been in compliance with the interim limits for mercury as results have been reported as follows;

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

Mercury (n =22)

Value	Limit (ng/L)	Range (ng/L)	Mean (ng/L)
Average	50.8	0.5 – 2.2	0.7
Maximum	76.3	0.5 – 2.2	0.7

On February 6, 2012, the Department issued a modification of the previous permit by reducing the monitoring frequency for mercury from 2/Year to 1/Year based on a statistical evaluation of the data on file at the Department. The review of the monitoring data for total and mercury indicated the ratios (expressed in percent) of the long term effluent average to the average limit can be calculated as follows:

Mercury

Long term average = 0.7 lbs/day
Average limit = 50.8 lbs/day
Current monitoring frequency = 2/Year

Ratio = $\frac{0.7 \text{ ug/L}}{50.8 \text{ ug/L}}$ = 13%

Pursuant to Maine law 38, M.R.S.A. §420, sub-§1-B, ¶F, and supported by EPA's statistical approach to reduce monitoring frequencies in permits, this permitting action is carrying forward the 1/Year monitoring requirement.

Outfall #002 – Non-contact cooling water

k. Flow – The previous permitting action established a daily maximum flow limitation of 0.075 MGD for Outfall #002 based on information provided by the permittee as being a flow that is representative of the maximum discharge flow for this outfall. The previous permit established a 1/Week monitoring requirement for flow.

A review of the DMR data for the period January 2008 through April 2012 indicates values have been reported as follows:

Flow (n = 52)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly average	Report	0.0001 – 0.013	0.0002
Daily maximum	0.075	0.0001 – 0.0021	0.0003

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

Flow

Long term average = 0.0002 MGD
Monthly average limit = 0.075 MGD
Current monitoring frequency = 1/Week

Ratio = 0.0002 MGD / 0.075 MGD = 0.3%

According to Table I of the EPA Guidance, a 1/Week monitoring requirement can be reduced to 1/2 months. The Department is making a best professional judgment that a monitoring frequency of 1/2 months is not sufficient to determine on-going compliance at the facility. However, the Department is willing to reduce the monitoring frequency for flow to 1/Month in this permitting action.

1. Temperature: The previous permitting action established a seasonal daily maximum temperature reporting requirement from June 1 through September 1 for Outfall #002A, with monitoring conducted at a frequency of 3/week.

Department rule (06-096 CMR) Chapter 582, Regulations Relating to Temperature, Section 5, states, "*No discharge of pollutants shall cause the monthly mean of the daily maximum ambient temperature in any tidal body of water, as measured outside the mixing zone, to be raised more than 4 degrees Fahrenheit, nor more than 1.5 degrees Fahrenheit from June 1 to September 1. In no event shall any discharge cause the temperature of any tidal waters to exceed 85 degrees Fahrenheit at any point outside a mixing zone established by the Board*" of Environmental Protection.

A review of the DMR data for the period June 2008 through September 2011 indicates values have been reported as follows:

Temperature (n =22)

Value	Limit (°F)	Range (°F)	Mean (°F)
Maximum	Report	68°F - 82°F	75 °F

This permitting action carries forward the seasonal temperature reporting requirement but is reducing the monitoring frequency from 3/Week to 1/Week based on the consistency of the temperature data cited above.

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

m. pH – The previous permitting action established a technology based pH range limit of 6.0-8.5 standard units along with a 1/Week monitoring requirement for Outfall #001A based on a Department BPJ of BPT.

The Department reviewed DMR data for the period of January 2008 through April 2012 indicates values have been reported as follows.

pH (DMRs = 52)

Value	Limit (su)	Minimum (su)	Maximum (su)
Range	6.0 – 8.5	6.95	8.35

The range limitation and the monitoring frequency of 1/Week are being carried forward in this permitting action.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY:

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

8. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper on or about September 21, 2012. 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.

9. DEPARTMENT CONTACTS

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

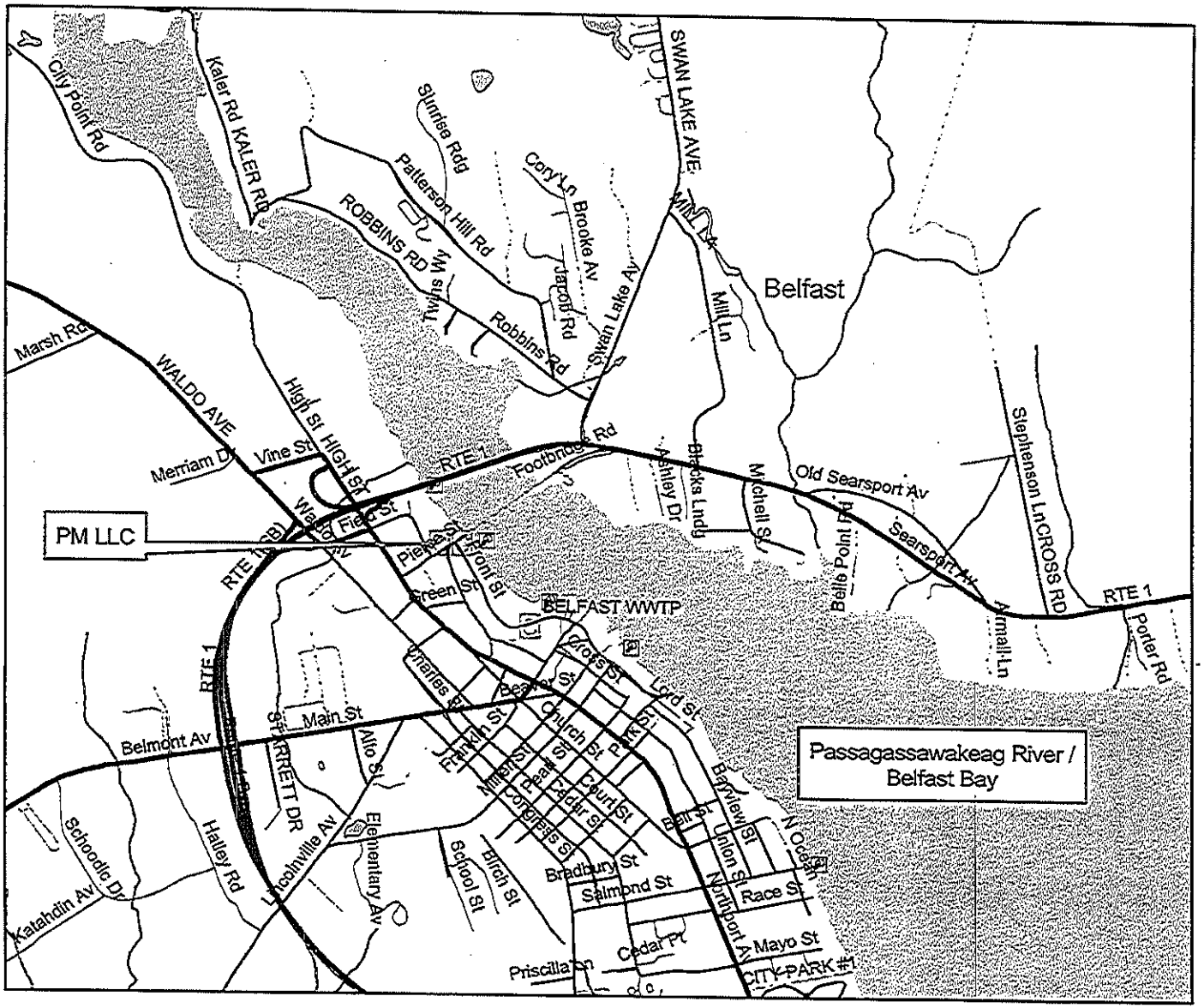
Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Telephone (207) 287-7693
Fax (207) 287-3435
email: gregg.wood@maine.gov

10. RESPONSE TO COMMENTS

During the period October 19, 2012 through the issuance date of the permit, the Department solicited comments on the proposed draft permit for 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



Legend

Streams
- AA
- A
- B
- C
- Ponds and Lakes
- Wastewater_Facilities
- Wastewater_Outfalls

Roads
JURISDICTION
- Town Road
- Town Road - Summer
- Town Road - Winter
- State-aided Highway
- State Highway
- Toll Highway
- Private Road
- Reservation Road
- Seasonal Parkway

- SA
- SB
- sa
- sb
- sc

Penobscot McCrum LLC
Belfast, Maine

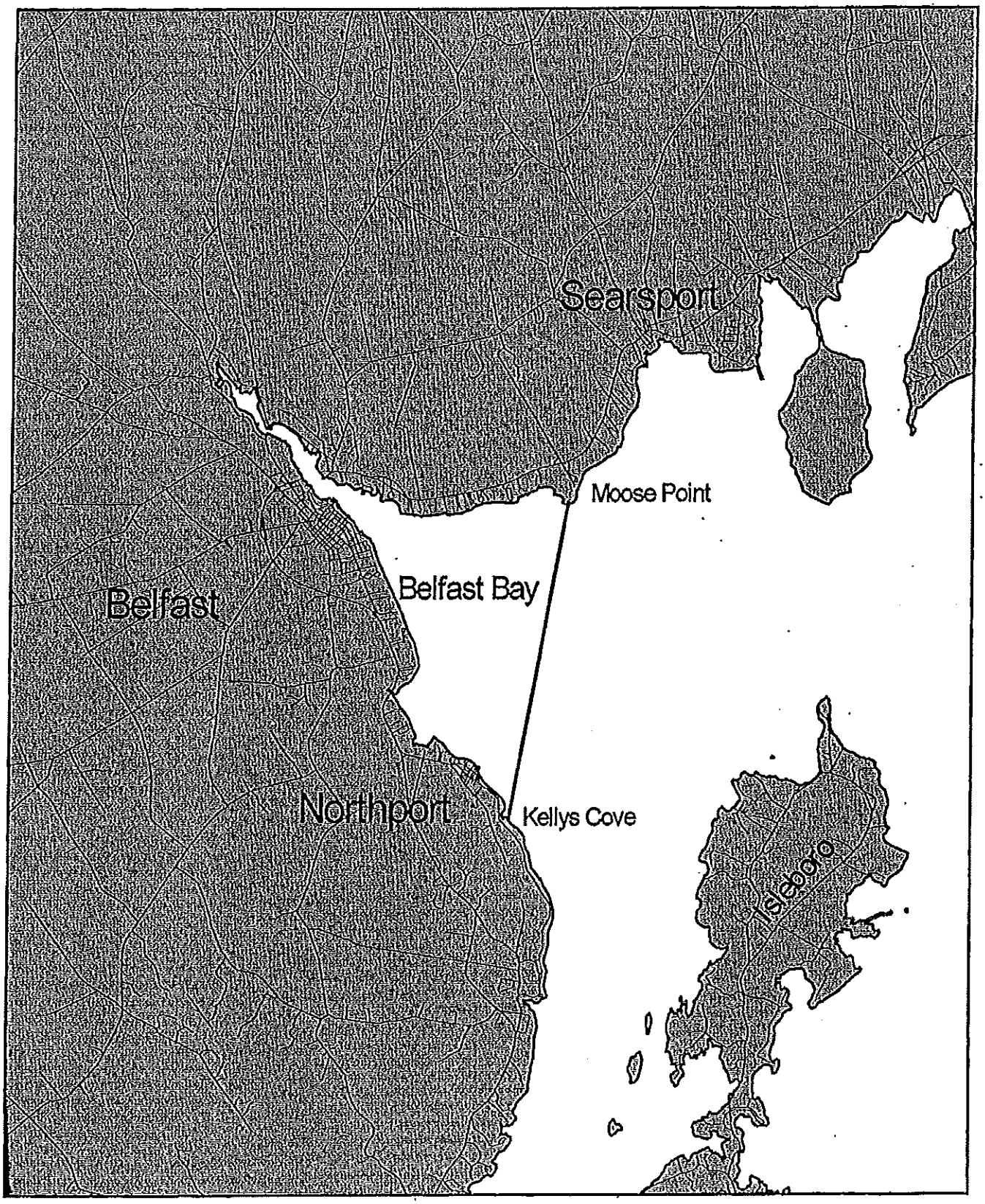
Map created by:
Bob Stratton
Division of Water Quality Management
Maine Department of Environmental Protection

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF MAINE

Department of Marine Resources

Legal Notice of Shellfish Closure Area

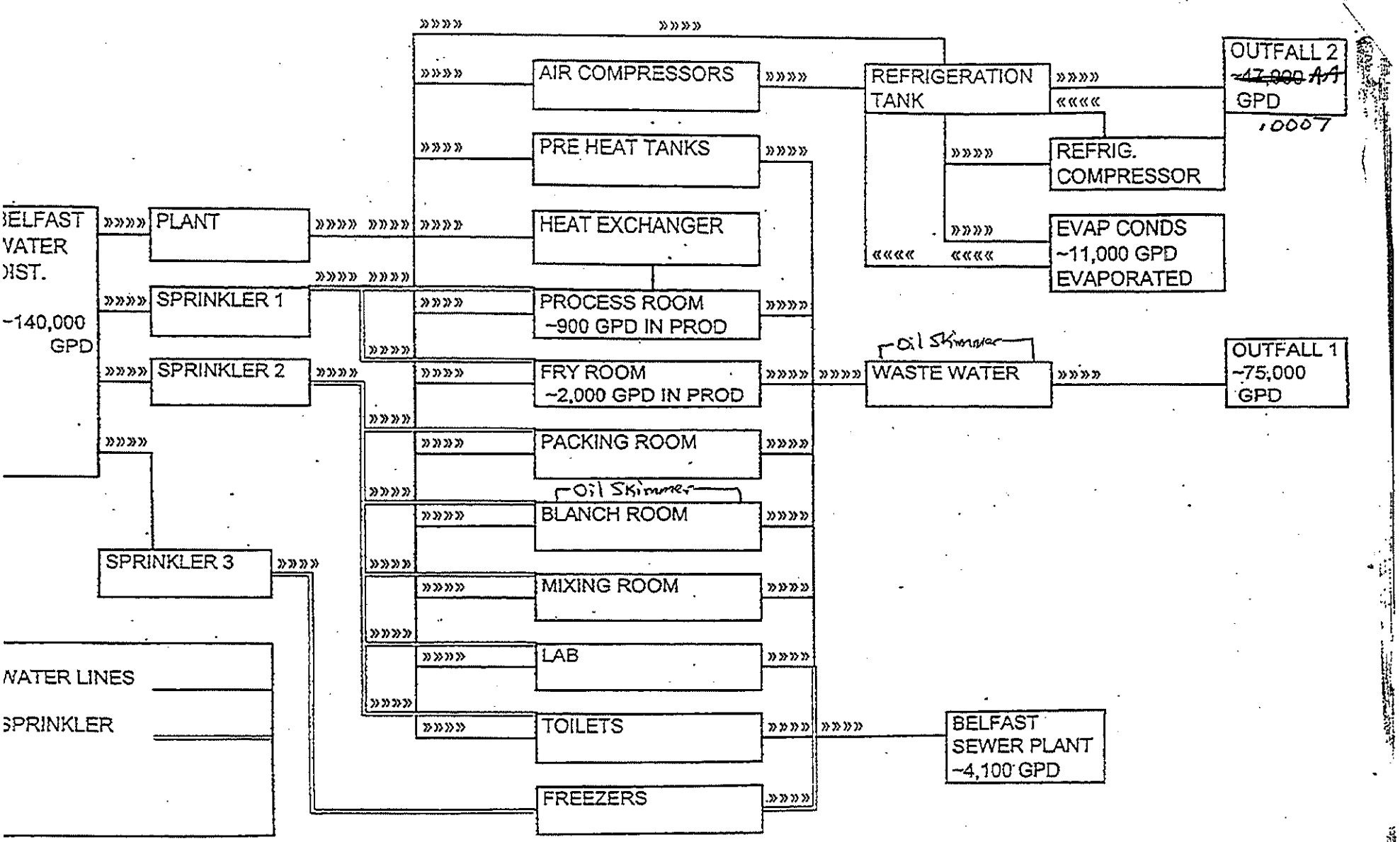
C 32 Belfast Bay, Belfast



ATTACHMENT B

#2

PENOBSCOT FROZEN FOODS, INC. WATER USAGE SCHEMATIC



ATTACHMENT C

WET TEST REPORT

Data for tests conducted for the period

19/Oct/2007 -19/Oct/2012

PENOBSCOT MCCRUM LLC NPDES= ME002304 Effluent Limit: Acute (%) = 6.667 Chronic (%) = 0.662

Species	Test	Percent	Sample date	Critical %	Exception	RP
MYSID SHRIMP	A_NOEL	100	12/15/2008	6.667		
MYSID SHRIMP	A_NOEL	25	08/10/2009	6.667		
MYSID SHRIMP	A_NOEL	100	03/08/2010	6.667		
MYSID SHRIMP	A_NOEL	100	03/08/2010	6.667		
MYSID SHRIMP	A_NOEL	100	04/11/2011	6.667		
SEA URCHIN	C_NOEL	0.70	12/15/2008	0.662		
SEA URCHIN	C_NOEL	6.70	08/10/2009	0.662		
SEA URCHIN	C_NOEL	0.70	03/08/2010	0.662		
SEA URCHIN	C_NOEL	6.70	04/11/2011	0.662		

ATTACHMENT D

PRIORITY POLLUTANT DATA SUMMARY

Date Range: 19/Nov/2007 - 19/Nov/2012

Facility Name: **PENOBSCOT MCCRUM LLC** NPDES: **ME0023043**

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
12/15/2008	0.05	0.05	17	10	0	0	0	7	0	F	0
08/10/2009	0.03	0.05	17	10	0	0	0	7	0	F	0
03/08/2010	0.06	0.06	17	10	0	0	0	7	0	F	0
04/11/2011	0.05	0.07	17	10	0	0	0	7	0	F	0
12/28/2011	0.04	0.03	11	10	0	0	0	1	0	F	0
03/29/2012	NR	NR	11	10	0	0	0	1	0	F	0
06/28/2012	0.05	0.05	11	10	0	0	0	1	0	F	0
09/27/2012	0.04	0.05	11	10	0	0	0	1	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

FACILITY CHEMICAL DATA REPORT

Data Date Range: 19/Nov/2007 - 19/Nov/2012

Facility name: **PENOBSCOT MCCRUM LLC** Permit Number: **ME0023043**

Parameter: COPPER

Test date	Result (ug/l)	Lsthan
12/15/2008	17.000	N
08/10/2009	12.000	N
03/08/2010	14.000	N
04/11/2011	22.000	N
12/28/2011	15.600	N
03/29/2012	9.100	N
06/28/2012	7.200	N
09/27/2012	36.300	N

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

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

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

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

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

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

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

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

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

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

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

5. Bypasses.

(a) Definitions.

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

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

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

(c) Notice.

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

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

(d) Prohibition of bypass.

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

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

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

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

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

C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

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

(c) Records of monitoring information shall include:

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

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

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

D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

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

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

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

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

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

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

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

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

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

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

(f) Twenty-four hour reporting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Publicly owned treatment works.

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

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

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

E. OTHER REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012 **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. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board 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 the Board's 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 a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of 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

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of 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 on the appeal 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, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that 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 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.

Other Considerations in Appealing a Decision to the Board

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, 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.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder 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 receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the 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 or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

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.