STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

February 21, 2013

Mr. Robert Clark
Superintendent
Richard B. Goodenow Wastewater Treatment Facility
96 Clearwater Dr.
Falmouth, ME. 04105

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100218
Maine Waste Discharge License (WDL) Application #W002650-6D-G-R
Final Permit

Dear Mr. Clark:

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 592-7161.

Sincerely,

Cindy L. Dionne
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.
cc: Matthew Hight, DEP/SMRO
Sandy Mojica, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679
(207) 764-0477 FAX: (207) 760-3143

web site: www.maine.gov/dep

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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF FALMOUTH	)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS	)	ELIMINATION SYSTEM PERMIT
FALMOUTH, CUMBERLAND COUNTY, ME	)	AND
ME0100218	)	WASTE DISCHARGE LICENSE
W002650-6D-G-R **APPROVAL**	)	**RENEWAL**

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

APPLICATION SUMMARY

The Town has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100218/Maine Waste Discharge License (WDL) #W002650-5L-F-R (permit hereinafter) which was issued on February 12, 2008 for a five-year term. The 2/12/08 permit authorized the discharge of up to a monthly average flow of 1.56 million gallons per day (MGD) of secondary treated sanitary waste waters from a publicly owned treatment works facility to the Presumpscot River estuary, Class SC, in Falmouth, Maine.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the previous permitting actions except that it eliminates the monthly average and/or daily maximum water quality based mass and concentration limits for ammonia, and establishes monthly average and daily maximum water quality based mass limits for copper. Also this permit is reducing the monitoring frequencies for biochemical oxygen demand (BOD), total suspended solids (TSS), and fecal coliform bacteria based on a statistical analysis in accordance with the methodology established in the U.S. Environmental Protection Agency's "*Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies*" (USEPA 1996).

CONCLUSIONS

Based on the findings in the attached **FINAL** Fact Sheet dated February 21, 2013, 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 as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application for the TOWN OF FALMOUTH, to discharge up to a monthly average flow of 1.56 million gallons per day of secondary treated sanitary waste waters to the Presumpscot River estuary, Class SC, 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 becomes effective upon the date of signature below and expires at midnight five (5) years after that 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 21st DAY OF February, 2013.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
For Patricia W. Aho, Commissioner

Date of initial receipt of application November 8, 2012.
Date of application acceptance November 13, 2012.

Date filed with Board of Environmental Protection

Filed
FEB 22 2013
State of Maine
Board of Environmental Protection

This Order prepared by Cindy L. Dionne, Bureau of Land & Water Quality

File: ME0100218 Date Last Revised: 2/21/13

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning upon issuance of this permit the permittee is authorized to discharge secondary treated wastewaters from **OUTFALL # 001A** to the Presumpscot River Estuary. 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 (DMR's).

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	1.56 MGD *[03]*	---	Report MGD *[03]*	---	---	---	Continuous *[99/99]*	Recorder *[RC]*
Biochemical Oxygen Demand (BOD_5) *[00310]*	390 lbs/Day *[26]*	585 lbs/Day *[26]*	650 lbs/Day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24 Hr. Composite *[24]*
BOD5 % Removal (1) *[81010]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Total Suspended Solids (TSS) *[00545]*	390 lbs/Day *[26]*	585 lbs/Day *[26]*	650 lbs/Day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24 Hr. Composite *[24]*
TSS % Removal (1) *[81011]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids *[00545]*	---	---	---	---	---	0.3 ml/L *[25]*	5/Week *[05/07]*	Grab *[GR]*
Fecal Coliform Bacteria (2) *[74055]*	---	---	---	15/100 ml(3) *[13]*	---	50/100 ml *[13]*	1/Week *[01/07]*	Grab *[GR]*
Total Residual Chlorine(4) *[50060]*	---	---	---	0.080 mg/L *[19]*	---	0.10 mg/L *[19]*	7/Week *[05/07]*	Grab *[GR]*
pH (Std. Units) *[00400]*	---	---	---	---	---	6.0-9.0 *[12]*	5/Week *[05/07]*	Grab *[GR]*
Copper *[01042]*	0.41 lbs/day *[26]*	---	---	Report ug/L *[28]*	---	---	1/Quarter *[01/90]*	24 Hr. Composite *[24]*
Mercury (Total) (5)	---	---	---	22.5 ng/L *[3M]*	---	33.8 ng/L *[3M]*	1/Year *[01/YR]*	Grab *[GR]*

SPECIAL CONDITIONS

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

SURVEILLANCE LEVEL – Beginning upon issuance of this permit and lasting through 24 months prior to permit expiration, and commencing again 12 months prior to permit expiration the permittee shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity[6]						
Acute – NOEL						
Mysidopsis bahia [TDM3E] (Mysid Shrimp)	---	---	---	Report% [23]	1/Year [02/YR]	Composite [24]
Chronic – NOEL						
Arbacia punctulata [TBH3A] (Sea urchin)	---	---	---	9.1 % [23]	2/Year [02/YR]	Composite [24]
Analytical Chemistry[7,9] [51168]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

SPECIAL CONDITIONS

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

SCREENING LEVEL - Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity Acute – NOEL						
Mysidopsis bahia [TDM3E] (Mysid Shrimp)	---	---	---	Report % [23]	1/Quarter [01/90]	Composite [24]
Chronic – NOEL						
Arbacia punctulata [TBH3A] (Sea urchin)	---	---	---	9.1 % [23]	1/Quarter [01/90]	Composite [24]
Analytical Chemistry(7,9) [51168]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority Pollutant(8) [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

SPECIAL CONDITIONS

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

Footnotes:

Sampling – Sampling the treatment plant effluent for compliance with this permit shall be conducted after de-chlorination. Grab samples shall be collected after the final weir. Any change in sampling location must be approved by the Department in writing. Sampling and analysis must be conducted in accordance with; a) methods approved 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 another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

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

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

2. **Fecal coliform bacteria** - Limits apply on a year-round basis.

3. **Fecal coliform bacteria** - This is a geometric mean limitation and results shall be reported as such.

SPECIAL CONDITIONS

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

Footnotes (cont.):

4. **Total residual chlorine (TRC)** – TRC limitations are applicable anytime of year in which elemental chlorine or chlorine based compounds are utilized as disinfectants. If no chlorine based compounds are utilized during a month's reporting period, the permittee shall enter the code "NODI-9" in the applicable space on the corresponding month's DMR. The permittee shall utilize approved test methods that are capable of bracketing the limitations in this permit.

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

6. **Whole Effluent Toxicity (WET)** – Definitive WET testing is a multi-concentraion testing event (a minimum of five dilutions bracketing the acute and chronic critical thresholds of 12 % and 9.1% respectively), which provides an 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. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*). The critical acute and chronic thresholds were derived as the mathematic inverse of the applicable acute and chronic dilution factors of 8.3:1 and 11:1 respectively.

   a. **Surveillance level testing** – Beginning upon issuance of this permit and lasting through 24 months prior to permit expiration (years 1-3 of the permit), and commencing again 12 months prior to permit expiration (year 5 of the permit), the permittee shall conduct surveillance level WET testing at a minimum frequency of (1/Year) for the mysid shrimp and 2/Year for the sea urchin. For the mysid shrimp, testing shall be conducted in a different calendar quarter of each year such that a WET test is conducted in each of the four calendar quarters during the first four years of the term of the permit. For the sea urchin, there shall be at least 6 months between testing events.

   b. **Screening level testing** - Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this

SPECIAL CONDITIONS

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

Footnotes (cont.):

requirement, the permittee shall conduct screening level WET testing at a minimum frequency of 1/Quarter.

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 after receiving the results from the laboratory 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 12% and 9.1%, 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 nine (9) parameters specified in the WET chemistry section, and the twelve (12) parameters specified in the analytical chemistry section, of the form in Attachment A of this permit each time a WET test is performed.

7. **Analytical chemistry** – Refers to a suite of chemicals in Attachment A of this permit.

   a. **Surveillance level testing** – Beginning upon issuance of this permit and lasting through 24 months prior to permit expiration (years 1-3 of the permit), and commencing again 12 months prior to permit expiration (year 5 of the permit), Beginning upon issuance of this permit and last through the first four years of the term of this permit, the permittee shall conduct surveillance analytical chemistry testing at a minimum frequency of 1/Year. As with WET testing, testing shall be conducted in a different calendar quarter of each year such that an analytical chemistry test is conducted in each of the four calendar quarters during the first four years of the term of the permit.

   b. **Screening level testing** - Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and

SPECIAL CONDITIONS

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

Footnotes (cont.):

every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee shall conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter).

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

   a. **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). It is noted Chapter 530 does not require routine surveillance level priority pollutant testing.

   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.

9. **Priority pollutant and analytical chemistry** – Test results must be submitted to the Department not later than the next DMR required by the permit provided, however, that the permittee may review the toxicity reports for up to 10 business days after receiving the test results from the laboratory before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedences of the acute, chronic or human health AWQC as established in Department rule Chapter 584. For the purposes of Discharge Monitoring Report (DMR) reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

B. NARRATIVE EFFLUENT LIMITATIONS

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

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS (cont.)

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

D. LIMITATIONS FOR INDUSTRIAL USERS

Pollutants introduced into the waste water collection and treatment system by a non-domestic source (user) shall not pass through or interfere with the operation of the treatment system. The licensee shall conduct an Industrial Waste Survey (IWS) at any time a new industrial user proposes to discharge within its jurisdiction, an existing user proposes to make a significant change in its discharge, or, at an alternative minimum, once every permit cycle, and submit the results to the Department. The IWS shall identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under section 307(b) of the federal Clean Water Act, 40 CFR Part 403 (general pretreatment regulations) or *Pretreatment Program*, 06-096 CMR 528 (last amended March 17, 2008).

E. NOTIFICATION REQUIREMENT

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

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

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

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

SPECIAL CONDITIONS

E. NOTIFICATION REQUIREMENT (cont.)

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

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

F. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on November 13, 2012; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. 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.

G. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

Pursuant to this permit and *Standards for the Addition of Transported Wastes to Waste Water Treatment Facilities,* 06-096 CMR 555 (last amended February 5, 2009), during the effective period of this permit, the permittee is authorized to receive and introduce into the treatment process or solids handling stream up to **a daily maximum of 8,000 gallons per day** of transported wastes, subject to the following terms and conditions.

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

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

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

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

SPECIAL CONDITIONS

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

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

5. The permittee shall maintain records for each load of transported wastes in a daily log which shall include at a minimum the following.
   (a) The date;
   (b) The volume of transported wastes received;
   (b) The source of the transported wastes;
   (d) The person transporting the transported wastes;
   (e) The results of inspections or testing conducted;
   (f) The volumes of transported wastes added to each treatment stream; and
   (g) The information in (a) through (d) for any transported wastes refused for acceptance.
   These records shall be maintained at the treatment facility for a minimum of five years.

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

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

8. During wet weather events, transported wastes may be added to the treatment process or solids handling facilities only in accordance with a current high flow management plan approved by the Department that provides for full treatment of transported wastes without adverse impacts.

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

SPECIAL CONDITIONS

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

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

11. The authorization in the Special Condition is subject to annual review and, with notice to the permittee and other interested parties of record, may be suspended or reduced by the Department as necessary to ensure full compliance with 06-096 CMR 555 and the terms and conditions of this permit.

H. WET WEATHER FLOW MANAGEMENT PLAN

A revised copy of the facilities' Wet Weather Operating Guidelines (dated December 2002) was submitted with the waste discharge renewal application. This plan includes a comprehensive list of actions to be taken previous to, during, and after a wet weather event. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall. **The permittee shall review their plan annually** and record any necessary changes to keep the plan up-to-date.

I. 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. The O & M plan shall be a working document designed for use by personnel working at the facility.

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

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

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

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

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

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

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

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

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

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

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

K. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (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 compliance inspector (unless otherwise specified) to the following address:

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

L. REOPENING OF PERMIT FOR MODIFICATION

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

M. SEVERABILITY

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

ATTACHMENT A

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS

Facility Name _____ MEPDES Permit # _____

Pipe # _____

Facility Representative _____ Signature _____

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

Facility Telephone # _____ Date Collected _____ Date Tested _____

mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

	mysid shrimp	sea urchin
A-NOEL		
C-NOEL		

Effluent Limitations

A-NOEL	
C-NOEL	

Data summary

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

place * next to values statistically different from controls

Salinity Adjustment

brine	
sea salt	
other	

Reference toxicant

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

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

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

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.

	WHOLE EFFLUENT TOXICITY		Effluent Limits, % Acute	Effluent Limits, % Chronic		Receiving Water or Ambient	Effluent Concentration (ug/L or as noted) WET Result, % Do not enter % sign	Reporting Limit Check	Possible Exceedence (7) 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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **February 21, 2013**

PERMIT NUMBER: **ME0100218**

LICENSE NUMBER: **W002650-6D-G-R**

NAME AND ADDRESS OF APPLICANT:

TOWN OF FALMOUTH
271 Falmouth Rd.
Falmouth, ME. 04105

COUNTY: **Cumberland County**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

RICHARD B. GOODENOW WASTEWATER TREATMENT FACILITY
96 Clearwater Dr.
Falmouth, ME. 04105

RECEIVING WATER(S)/CLASSIFICATION: **Presumpscot River Estuary/Class SC**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Robert "Peter" Clark, Supt.**
(207) 781-4462
pclark@town.falmouth.me.us

1. APPLICATION SUMMARY

a. Application: The Town of Falmouth (Town hereinafter) has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100218/Maine Waste Discharge License (WDL) #W002650-5L-F-R (permit hereinafter) which was issued on February 12, 2008 for a five-year term. The 2/12/08 permit authorized the discharge of up to a monthly average flow of 1.56 million gallons per day (MGD) of secondary treated sanitary waste waters from a publicly owned treatment works facility to the Presumpscot River estuary, Class SC, in Falmouth, Maine. See Attachment A of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont.)

b. Source Description: The waste water treatment facility was originally constructed and went on-line in 1971. As indicated by the permittee, slightly more than half of the homes in Falmouth use onsite sewage disposal systems. The remaining homes in Falmouth, and homes in the town of Cumberland are served by this facility. The treatment facility receives sanitary waste waters generated by residential and commercial entities and does not have any industrial users contributing more than 10% of the flow or pollutant load to the collection and or waste water treatment facility.

The sanitary sewer collection system consists of approximately fifty (50) miles of piping with twenty-three (23) pump stations. Nine (9) of the pump stations are equipped with on-site back-up power and fourteen (14) are equipped with visual and audio alarms and served by portable generators. The sanitary collection system is completely separated from the storm water collection system and as a result, there are no combined sewer overflow (CSO) points in the collection system. The facility is authorized to receive and treat up to 8,000 gallons per day of transported septage.

c. Waste Water Treatment: The facility provides a secondary level of treatment via an activated sludge system referred to as the Modified Ludzack – Ettinger process. The treatment plant headworks includes flow measurement in two Parshall flumes, a climber screen for rag removal and an aerated grit chamber for grit removal. Waste water is then treated in two aeration units. These units include preliminary and secondary anoxic zones with mechanical mixing, aerobic zones with fine bubble aeration, and pumping systems to recycle solids internally within the tank. Overflow from the aeration system is to two final clarifiers. Effluent from the clarifiers is then disinfected using sodium hypochlorite in a chlorine contact tank and dechlorinated using sodium bisulfite. The treatment facility has back-up power to power all treatment processes in the event of a power outage. The treated effluent is conveyed to the river through a 20-inch diameter 234-foot long pipe without a diffuser. The pipe is above high tide and discharges to the intertidal zone. At low tide, effluent flows in a ditch, through salt marsh and mudflat and combines with Skitterygusset Creek, before reaching the main channel of the Presumpscot River estuary. High tide comes up to the base of the outfall structure. See Attachment B of this Fact Sheet for a schematic of the treatment facility.

Recently the facility was upgraded. As described in the application, the upgrades "provide nutrient reduction and increased ability to handle the peak wet weather flows. Upgrade included new screening, aeration tanks with anoxic zone and recycle, conversion of old units to increased volume clarifiers, new chlorine contact tank, sludge pumping, sludge storage, septic storage and handling, and plant water systems."

The sludge handling equipment at the plant includes two aerobic digester with a combined capacity of 250,000 gallons, a "Bird" centrifuge dewatering unit and two "Reed bed" storage basins. Dewatered sludge is composted by a contract vendor.

2. PERMIT SUMMARY

Terms and conditions:
This permitting action is carrying forward all the terms and conditions of the previous permitting actions except that it eliminates the monthly average and/or daily maximum water quality based mass and concentration limits for ammonia, and establishes monthly average and daily maximum water quality based mass limits for copper. This permit also is reducing the monitoring frequencies for biochemical oxygen demand (BOD), total suspended solids (TSS), and fecal coliform bacteria based on a statistical analysis in accordance with the methodology established in the U.S. Environmental Protection Agency's "*Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies*" (USEPA 1996).

a. History: The most recent relevant licensing/permitting actions include the following:

September 2, 1993 – The EPA issued a renewal of NPDES permit #ME0100218 for a five-year term.

September 23, 1999 – The Department issued WDL #W002650-5L-C-R for a five-year term.

January 24, 2000 – The Department administratively modified WDL #W002650-5L-C-R by requiring the waste water facility to disinfect on a year-round basis as the Maine Department of Marine Resources determined the discharge was causing the closure of a shellfish area in Mackworth Cove.

May 23, 2000 – Pursuant to Department rule Chapter 519, *Interim Effluent Limitations and Controls for the Discharge of Mercury*, the Department administratively modified the 9/23/99 WDL by establishing interim average and maximum concentration limits for the discharge of mercury.

January 22, 2003 – The Department issued combination MEPDES permit #ME0100218/WDL #W002650-5L-E-R for a five-year term.

April 20, 2006 – The Department issued a modification of the 1/22/03 MEPDES permit by incorporating whole effluent toxicity (WET) and chemical specific testing requirements pursuant to Department rule Chapter 530, promulgated on October 12, 2005.

November 15, 2007 – The Town of Falmouth filed a timely and complete application with the Department to renew the MEPDES permit.

February 12, 2008 – The Department issued combination MEPDES permit #ME0100218/WDL #W002650-5L-F-R for a five year term.

2. PERMIT SUMMARY (cont.)

November 8, 2012 – The Town of Falmouth filed a timely and complete application with the Department to renew the MEPDES permit.

3. CONDITIONS OF PERMITS

Conditions of Licenses, 38 M.R.S.A. §414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain Deposits and Discharges Prohibited,* 38 M.R.S.A. §420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005), require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER STANDARDS

Classifications of estuarine and marine waters, 38 M.R.S.A. § 469(8) classifies the Presumpscot River estuary as a Class SC waterway. *Standards for classification of estuarine and marine waters,* 38 M.R.S.A. § 465-B (3) describes the classification standards for Class SC waterways as follows;

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

The dissolved oxygen content of Class SC waters must be not less than 70% 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 14 per 100 milliliters or an instantaneous level of 94 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 restricted shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.

Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community.

5. EXISTING WATER QUALITY CONDITIONS

A letter dated August 31, 2012 from Michelle Mason Webber (Commissioner's Designee) of the Maine Department of Marine Resources Shellfish Program reclassifies the permittees' facility from Area #14 to Area #13 (Cape Elizabeth to Falmouth). The letter states that "effective immediately, 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 the following areas:

Western Casco Bay and Islands (Cape Elizabeth to Falmouth)."

Please see Attachment C for a copy of this letter. A map dated 8/30/12 also depicts the prohibited area and includes the facility location.

The 2008 and 2010 Maine Integrated Water Quality Monitoring & Assessment Report 305(b) reports also lists all estuarine and marine waters in a category entitled, *Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants*. As in the previous permit, the waters are listed as partially supporting fishing ("shellfish consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomally. The Department is not aware of any PCBs or persistent, bioaccumulating substances (other than mercury) being discharged from the Town of Falmouth's waste water treatment that cause or contribute to the waterbodies impairment. For a discussion on mercury, see section 6(i) of this Fact Sheet.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Flow: The previous permitting action established a monthly average flow limitation of 1.56 MGD that is being carried forward in this permitting action as it remains representative of the monthly average design capacity of the facility. A review of the DMR data for the period January 31, 2009 – October 6, 2012 indicates the following:

Flow

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	1.56	0.706 – 1.417	0.98
Daily Maximum	Report	0.857 – 4.245	1.78

b. Dilution Factors - Department Regulation Chapter 530, *Surface Water Toxics Control Program*, §4(A)(2) states that for discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water 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 or CORMIX.

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

The previous permitting action established dilution factors as follow:

Acute = 8.3:1 Chronic = 11:1 Harmonic mean [(1)] = 33:1

Footnote:

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

c. Biochemical Oxygen Demand (BOD5) & Total Suspended Solids (TSS): - The previous permitting action established monthly and weekly average BOD5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L respectively, that were based on secondary treatment requirements of the Clean Water Act of 1977 §301(b)(1)(B) as defined in 40 CFR 133.102 and Department rule Chapter 525(3)(III). The maximum daily BOD5 and TSS concentration limits of 50 mg/L were based on a Department best professional judgment (BPJ) of BPT. All three concentration limits are being carried forward in this permitting action.

As for mass limitations, the previous permitting action established monthly average, weekly average and daily maximum mass limitations that are being carried forward in this permitting action and are based on a monthly average limit of 1.56 MGD. The mass limits were derived as follows:

Monthly average: (1.56 MGD)(8.34)(30 mg/L) = 390 lbs/day
Weekly average: (1.56 MGD)(8.34)(45 mg/L) = 585 lbs/day
Daily Maximum: (1.56 MGD)(8.34) (50 mg/L) = 650 lbs/day

This permitting action is also carrying forward the requirement of 85% removal for BOD and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3).

Monitoring frequencies for BOD and TSS of 2/week, that the previous permit established, are based on a long standing Department policy for facilities with a monthly average flow greater than 1.0 MGD but less than 5.0 MGD.

A review of the DMR data for the period January 31, 2009 – October 6, 2012 indicates the monthly average and daily maximum mass and concentration values have been

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

reported as follows:

BOD Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	390	24 - 91	46
Daily Maximum	650	31– 350	81

BOD Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	4 - 8	6
Daily Maximum	50	5 – 13	8

TSS mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	390	8 - 89	39
Daily Maximum	650	16 – 290	88

TSS concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	1.0 – 14	4.8
Daily Maximum	50	3 – 26.9	9

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 to reduce 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.

According to Table I of the EPA Guidance, a 2/Week monitoring requirement can be reduced to 1/Month. However, the Department has determined that a reduction to 1/Week testing for BOD and TSS is consistent with our analysis of the data and best professional judgement. Therefore, the monitoring frequency for BOD and TSS has been reduced to 1/Week in this permitting action.

d. Settleable Solids – The previous permitting action established a daily maximum concentration limit of 0.3 ml/L for settleable solids that is being carried forward in this permitting action and is considered a Department BPJ of BPT for secondary treated waste waters. A review of the DMR data for the period January 31, 2009 – October 6, 2012 indicates the daily maximum concentration values reported have ranged from 0.2 ml/L – 0.5 ml/L with an arithmetic mean of 0.3 ml/L. Therefore, a reduction in testing frequency for Settleable Solids is not applicable at this time.

e. Fecal coliform bacteria – The previous permitting action established year-round monthly average and daily maximum limits of 15 colonies/100 ml and 50 colonies/100 ml respectively, that are consistent with the National Shellfish Sanitation Program. The limitations are being carried forward in this permitting action. The limits were established on a year-round basis at the request of the Maine Department of Marine Resources in January 2000 in effort to maintain an open shellfish harvesting in the vicinity of the discharge from the treatment facility. The previous permit established a 2/Week monitoring frequency for fecal coliform bacteria.

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

A review of the DMR data for the period January 31, 2009 – October 6, 2012 indicates the monthly average and daily maximum mass values have been reported as follows:

Fecal coliform bacteria

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	15	0.17 – 2.48	0.9
Daily Maximum	50	1 - 96	5

According to Table I of the EPA Guidance, a 2/Week monitoring requirement can be reduced to 1/Month. However, the Department is setting the monitoring frequency for fecal coliform bacteria to 1/Week in this permitting action.

f. Total Residual Chlorine: Limits on total residual chlorine are specified to ensure attainment of the in-stream water quality criteria for chlorine and that BPT technology is utilized to abate the discharge of chlorine. Permits issued by this Department impose the more stringent of the calculated water quality based or BPT based limits. The previous permitting action established monthly average and daily maximum water quality based limitations of 0.08 mg/L and 0.1 mg/L respectively. End-of-pipe water quality based thresholds for TRC may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dil. Factors	Calculated Acute Limit	Chronic Limit
0.013 mg/L	0.0075 mg/L	8.3:1, 11:1	0.11 mg/L	0.08 mg/L

Example calculation: Acute (0.013 mg/L)(8.3) = 0.11 mg/L

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine based compounds unless the calculated acute water quality based threshold is lower than 1.0 mg/L. For facilities that need to de-chlorinate the discharge to meet water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L respectively. In the case of the Falmouth, the acute water quality based threshold calculated of 0.1 mg/L is lower than the BPT limit of 0.3 mg/L, thus the water quality based limit of 0.1 mg/L is imposed as a daily maximum limit. As for the monthly average limit, the chronic water quality based threshold calculated of 0.08 mg/L is lower than the BPT limit of 0.1 mg/L thus the water quality based limit of 0.08 mg/L is imposed as a monthly average limit.

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

A review of the DMR data for the period January 31, 2009 – October 6, 2012 indicates the monthly average and daily maximum concentration values have been reported as follows:

Total residual chlorine

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	0.08	<0.05 – <0.05	<0.05
Daily Maximum	0.1	<0.05 – <0.05	<0.05

This permit is carrying forward the 7/Week monitoring frequency based on best professional judgement.

g. pH – The previous permitting action established a pH range limit of 6.0 –9.0 standard units pursuant to Department rule found at Chapter 525(3)(III)(c). The limits are considered BPT. The previous permit also reduced the monitoring frequency from 1/Day to 5/Week. A review of the DMR data for the period January 31, 2009 – October 6, 2012 indicates the pH values ranged from 6.0 to 7.0. Therefore the Department will continue with the monitoring frequency as specified in the previous permit.

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

WET, priority pollutant, and analytical chemistry testing as required by Chapter 530 is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics. 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 water quality criteria as established in Chapter 584.

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

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 I frequency category as the facility has a chronic dilution factor <20:1. Chapter 530(2)(D)(1) specifies that routine surveillance and screening level testing requirements are as follows:

Screening level testing

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

Surveillance level testing

Level	WET Testing	Priority pollutant testing	Analytical chemistry
I	2 per year	Not required	4 per year

See Attachment D of this Fact Sheet for a summary of the WET test results and Attachment E of this Fact Sheet for a summary of the chemical-specific test results submitted to the Department to date.

Chapter 530(2)(D)(3)(d) states in part that for Level I facilities "... *may reduce surveillance testing to one WET or specific chemical series per year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)".*

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

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

WET test evaluation

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.*"

On October 18, 2012, the Department conducted a statistical evaluation on the most recent 60 months of WET test results on file with the Department in accordance with the statistical approach in Chapter 530. The statistical evaluation indicates the discharge from the permittee's waste water treatment facility had one C-NOEL test results of 6.25% (5/14/12) for the sea urchin that exceeded the critical chronic water quality threshold of 9.1%. No test results from the A-NOEL exceeded the applicable water quality threshold. Therefore, the water quality limits set forth in the previous permit will be carried forward.

This permit action maintains the established reduced surveillance level testing for the mysid shrimp (1/Year) and maintains the routine surveillance level testing for the sea urchin (2/Year).

Beginning upon issuance of this permit modification and lasting through 24 months prior to permit expiration (years 1-3 of the permit) and commencing again 12 months prior to permit expiration (year 5 of the permit). Surveillance level WET testing is as follows:

Level	WET Testing
I	1 per year for the mysid shrimp 2 per year for the sea urchin

Chapter 530 §3(C) states in part; "*If these data indicate that the discharge is causing an exceedence of applicable water quality criteria, then: (1) the licensee must, within 45 days of becoming aware of an exceedence, submit a TRE plan for review and approval and implement the TRE after Department approval; and (2) the Department must, within 180 days of the Department's written approval of the TRE plan, modify the waste discharge license to specify effluent limits and monitoring requirements necessary to control the level of pollutants and meet receiving water classification standards.*"

Chapter 530 §(2)(D) states:

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

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

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

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

Special Condition J, 06-096 CMR 530 (2)(D)(4) *Statement For Reduced/Waiver Toxics Testing,* of this permitting action requires the permittee to file an annual certification with the Department.

Department rule Chapter 530 (2)(D)(1) specifies that screening level testing is to be established as follows:

Beginning 24 months prior to and lasting through 12 months prior to permit expiration (year 4 of the permit) and every five years thereafter.

Level	WET Testing
I	4 per year for the mysid shrimp 4 per year for the sea urchin

Analytical chemistry & priority pollutant testing evaluation

As with WET test results, on November 16, 2012, the Department conducted a statistical evaluation on the most recent 60 months of analytical chemistry and priority pollutant test results on file with the Department in accordance with the statistical approach outlined in Chapter 530. The statistical evaluation for ammonia is temperature dependant, therefore the Department analyzed winter-time data at 5 and 10 degrees Celsius. There were no ammonia exceedences or reasonable potential exceedences.

The November 16, 2012 indicates the discharge from the Falmouth waste water treatment facility has one data point (May 14, 2012) for copper that had a reasonable potential to exceed the chronic and acute AWQC.

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

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

background levels of metals in the water column of the Presumpscot River Estuary. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

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

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

Chapter 530 §(3)(D) states "*Expression of effluent limits. Where the need for effluent limits has been determined, limits derived from acute water quality criteria must be expressed as daily maximum values. Limits derived from chronic or human health criteria must be expressed as monthly average values.*" Therefore, this permit modification establishes monthly average (chronic) end-of-pipe (EOP) mass and concentrations limits for copper. The derivation for these limits is as follows:

Copper

Chronic AWQC = 3.73 ug/L (based on 25°C, salinity 20 ppt, pH 8.0 S.U.)

Chronic dilution factor = 11:1

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

EOP = [11 x 0.75 x 3.73 ug/L] + [0.25 x 3.73 ug/L] = 31.7 ug/L

Based on a permitted flow of 1.56 MGD, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Monthly Avg. Mass Limit
Copper	31.7 ug/L	0.41 lbs/day

Example Calculation: Copper - $\frac{(31.7\ ug/L)(8.34)(1.56\ MGD)}{1000}$ = **0.41 lbs/day**

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

Acute AWQC = 5.78 ug/L (based on 25°C, salinity 20 ppt, pH 8.0 S.U.)

Acute dilution factor = 8.3:1

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

EOP = [8.3 x 0.75 x 5.78 ug/L] + [0.25 x 5.78 ug/L] = 37.4 ug/L

Based on a permitted flow of 1.56 MGD, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Daily Max. Mass Limit
Copper	37.4 ug/L	0.49 lbs/day

Example Calculation: Copper - $\frac{(37.4 \text{ ug/L})(8.34)(1.56 \text{ MGD})}{1000}$ = **0.49 lbs/day**

Chapter 530 §(3)(D)(1) states "*For specific chemicals, effluent limits must be expressed in total quantity that may be discharged and in effluent concentration. In establishing concentration, the Department may increase allowable values to reflect actual flows that are lower than permitted flows and/or provide opportunities for flow reductions and pollution prevention provided water quality criteria are not exceeded. 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 publicly owned treatment works. Therefore, concentration limits for pollutants identified in 11/16/12 statistical evaluation that exceed or have a reasonable potential to exceed applicable ambient water quality criteria are not being established in this permitting action.

Chapter 530 does not establish specific monitoring frequencies for parameters that exceed or have a reasonable potential to exceed AWQC. This permitting action is establishing the monitoring frequencies for copper based on a best professional judgment given the timing, frequency, and severity of an exceedence or reasonable potential to exceed AWQC. To be consistent with the routine surveillance level monitoring requirements in Chapter 530, the Department is establishing a monitoring frequency of 1/Quarter for copper.

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

As for the remaining parameters, monitoring frequencies for priority pollutant and analytical testing established in this permitting action are based on the Chapter 530 rule. Chapter 530(2)(D)(3)(d) states in part that for Level I facilities "... *may reduce surveillance testing to one WET or specific chemical series per year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)".* Therefore, based on the results of the 11/16/12 evaluation report, this permit action establishes surveillance level priority pollutant and analytical testing (with the exception of copper) requirements as follows:

Beginning upon permit issuance and lasting through 24 months prior to permit expiration (years 1-3 of the permit) surveillance level testing requirements are as follows;

Level	Priority pollutant testing	Analytical chemistry
I	Not required	1 per year

And commencing again 12 months prior to permit expiration (year 5 of the permit). Department rule Chapter 530 (2)(D)(1) specifies that screening level testing is to be establishes for analytical chemistry and priority pollutant testing requirements as follows:

Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter screening level testing is as follows:

Level	Priority pollutant testing	Analytical chemistry
I	1 per year	4 per year

As with WET testing, Chapter 530 (2)(D) requires an annual certification to qualify for reduced testing. Special Condition J, 06-096 CMR 530 (2)(D)(4) *Statement for Reduced/Waived Toxics Testing*, of this permitting action requires the permittee to file an annual certification with the Department.

i. Mercury - On May 23, 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, administratively modifying WDL #W002650-5L-C-R by establishing interim average and maximum effluent concentration limits of 22.5 parts per trillion (ppt) and 33.8 ppt, respectively, and a minimum monitoring frequency requirement of four (4) tests per year for mercury. It is noted the limitations have been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit.

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

38 M.R.S.A. § 420(1-B)(B)(1) provides 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. A review of the Department's data base for the period March 2, 2004 – February 28, 2012 indicates mercury test results have ranged from 0.79 ppt to 39.7 ppt with an arithmetic mean (n=31) of 7.5 ppt.

7. DISPOSAL OF TRANSPORTED WASTE IN WASTE WATER TREATMENT FACILITY

The permittee's November 2012 application requested the Department approve authorization to accept and treat up to 8,000 gpd of transported wastes. Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities, 06-096 CMR 555 (effective March 9, 2009), limits the quantity of transported wastes received at a facility to 1% of the design capacity of the treatment facility if the facility utilizes a side stream or storage method of introduction into the influent flow, or 0.5% of the design capacity of the facility if the facility does not utilize the side stream or storage method of introduction into the influent flow. A facility may receive more than 1% of the design capacity on a case-by-case basis. The permittee does not utilize a side stream storage method as transported wastes are introduced into the headworks of the facility. With a design capacity of 1.56 MGD, 8,000 gpd represents 0.5% of said capacity. The Department has reviewed and approved the permittee's most current Septage Management Plan and determined that under normal operating conditions, the addition of 8,000 gpd via metered conditions of transported wastes into the facility will not cause or contribute to upset conditions of the treatment process.

8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has made a determination that 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 SC classification.

9. PUBLIC COMMENTS

Public notice of this application was made in the Portland Press Herald newspaper on or about November 7, 2012. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

10. DEPARTMENT CONTACTS

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

Cindy L. Dionne
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) 592-7161
Email: cindy.l.dionne@maine.gov

11. RESPONSE TO COMMENTS

During the period of December 26, 2012, through the issuance date of this permit, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department received a written comment from the USEPA in an electronic e-mail message dated January 14, 2013. A response to USEPA's comment is as follows:

Comment #1: "Our primary concern with the draft permit relates to nitrogen. Given the findings in the attached report, we believe that a reasonable potential analysis for nitrogen should be completed and documented in the Fact Sheet. If it is determined that there is a reasonable potential to cause or contribute to an impairment then the permit should include a nitrogen limit. If it is determined that there is not reasonable potential, a monitor only requirement should be included in the permit."

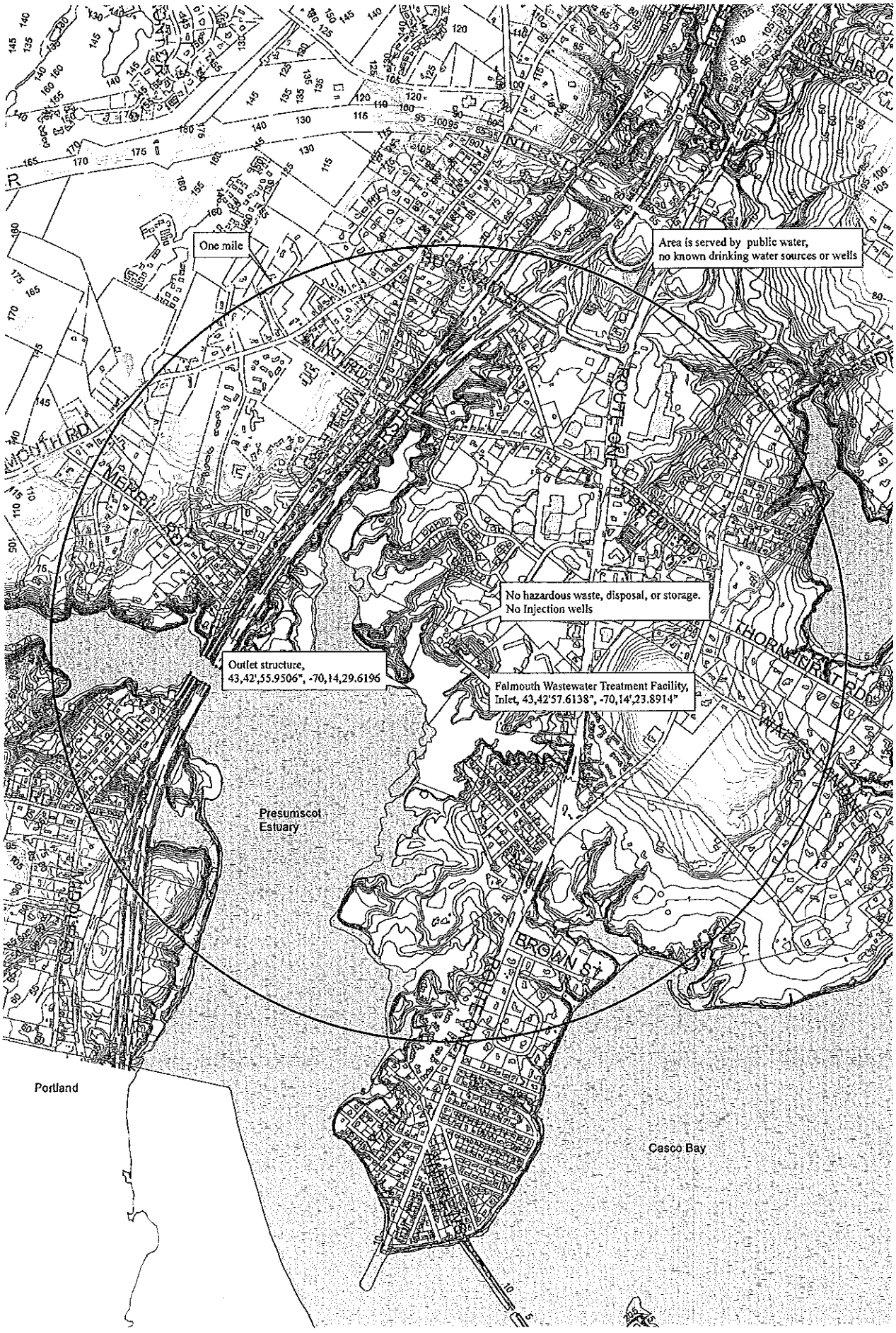
Response #1: The report the USEPA referred to is entitled, Estimates of nitrogen loads to Casco Bay, Final Draft, December 21, 2012. Table 3 of said report entitled, *Loads From Waste Water Treatment Plants (WWTP) to Casco Bay. Source ME DEP, 2008*, indicates the Falmouth facility discharges approximately 42,990 kg/year of total nitrogen to Casco Bay or 4.7% of the total nitrogen from the five waste water treatment facilities discharging to Casco Bay. The report indicates two modeling efforts by independent parties estimates waste water treatment facilities contribute to an average of 45% of all the total nitrogen to Casco Bay. Therefore, the Falmouth facility contributed approximately 2.2% of all of the total nitrogen to Casco Bay in 2008. It is noted the Falmouth recently upgraded the WWTP to specifically reduce the discharge of total nitrogen to the Bay. As a result, the discharge in calendar year 2012 was approximately half of levels discharged in 2008.

As of the date of this permitting action, the State of Maine has not promulgated ambient water quality criteria (AWQC) for total nitrogen making it impossible to conduct reasonable potential calculations. Adopting said AQC is scheduled for calendar year 2017.

11. RESPONSE TO COMMENTS (cont'd)

With the Falmouth facility only contributing to approximately 1% of all of the total nitrogen to Casco Bay, the Department is making a best professional judgment that Falmouth does not have a reasonable potential to cause or contribute to non-attainment of water quality standards in Casco Bay. Therefore, the final permit does not establish limitations or monitoring requirements for total nitrogen.

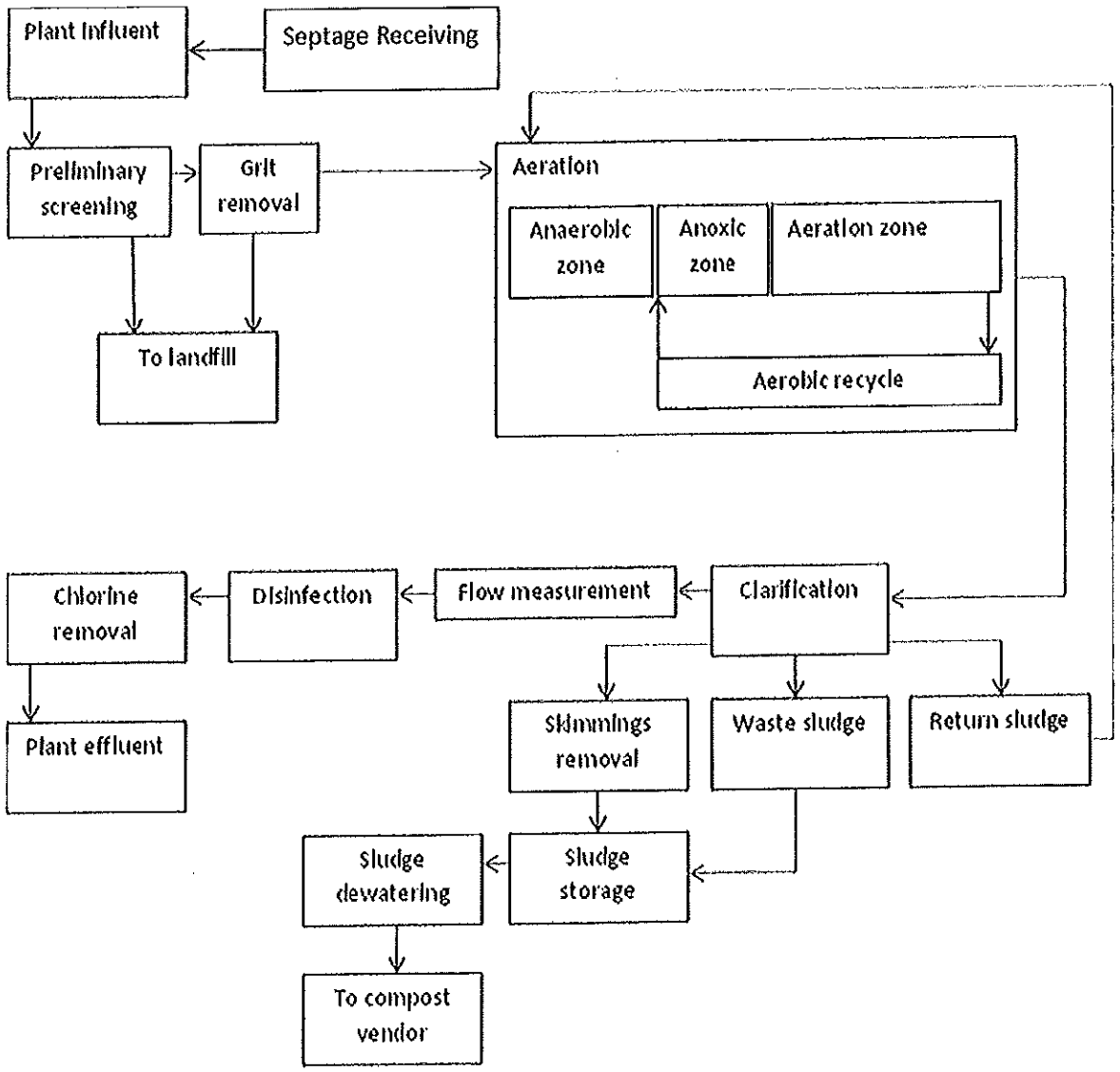
ATTACHMENT A



General Application attachment, Topograhic Map, Item 11.

ATTACHMENT B

Attachment, Plant Process Diagram



ATTACHMENT C

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PAUL R. LEPAGE
GOVERNOR

PATRICK C. KELIHER
COMMISSIONER

Shellfish Harvesting Area Classification-Notification of Changes

August 31, 2012

Ladies and Gentlemen:

Under the authority of Maine statute 12 M.R.S.A., Chapter 607, Section 6172; the Commissioner has made the following classification change to Area No. 13, Western Casco Bay and Islands (Cape Elizabeth to Falmouth: This notice reclassifies Chandler Cove, Great Chebeague Island from prohibited to approved due to removal of an OBD and updated shoreline survey. All existing pollution and red tide/psp closures remain in effect.

A. Effective immediately, 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 the following areas:

1. Western Casco Bay and Islands (Cape Elizabeth to Falmouth), inside and shoreward of a line beginning at the end of Waites Landing Road (Falmouth), then running southwest to the south tip of the most western island of The Brothers, continuing southeast to the south tip of the southeastern most island of The Brothers, continuing northeast to Crow Island (1000' northeast of Chivericks Cove (Long Island), continuing southeast to the navigational aide Red Beacon "P" Mo (A), and then continuing northwest to McKenney Point (Cape Elizabeth).

2. Mussel Cove area (Falmouth): inside and shoreward of a line beginning at a red painted post at the most northern point of land at the mouth of Mussel Cove (Falmouth), then continuing southeast to the tip of Bartlett Point (Falmouth), then continuing southeast to the tip of Prince Point (Falmouth).

3. Hope Island (Chebeague Island): within 500 feet of shore.

4. Cliff Island (Portland): within 500 feet of shore.

5. Bates Island (Chebeague Island): inside and shoreward of a line beginning at the north tip of Bates Island; then running southwest to the south tip of Ministerial Island; then running southeast to the south tip of Bates Island.

~~6. Chandler Cove (Chebeague Island): inside and shoreward of a line beginning at the south tip of Great Chebeague Island, then running northwest to the point of land at the end of Rickers Head Road.~~

~~7.~~ 6. Johnson Cove (The Cricks) (Chebeague Island): inside and shoreward of a line beginning at the south tip of Waldo Point, then running southwest to Jenks Point.

~~8.~~ 7. Clapboard Island (Falmouth): within 300 feet of shore.

B. Effective immediately, because of intermittent pollution, the following area is classified as "Conditionally Approved", and shall be closed to the harvest of clams, quahogs, oysters and mussels

from May 1 to November 14: the shores, flats and waters within the following boundaries (1) east of a line beginning at a red painted post at the most northern point of land at the mouth of Mussel Cove (Falmouth), then continuing southeast to the tip of Bartlett Point (Falmouth), then continuing southeast to the tip of Prince Point (Falmouth); (2) east of a line beginning at the end of Waites Landing Road (Falmouth), then running southwest to the south tip of the most western island of The Brothers, continuing southeast to the south tip of the southeastern most island of The Brothers; (3) inside and shoreward of a line beginning at the easternmost tip of the southeastern most island of The Brothers, continuing northeast to the southern tip of Sturdivant Island, then running southwest to the shore at the end of Town Landing Road (Falmouth).

If you have questions, please contact Kohl Kanwit, Department of Marine Resources, 194 McKown Point Road,West Boothbay Harbor, Maine 04575-0008, Tel: (207) 633-9535, Email: Kohl.Kanwit@maine.gov or Michelle Mason Webber, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021, Tel: (207) 624-6570, Email: Michelle.Mason@maine.gov.

This notice can be viewed on the Department's website at:
http://www.maine.gov/dmr/rm/public_health/closures/closedarea.htm
This information is also recorded on our HOTLINE (207-624-7727 OR 1-800-232-4733)

Sincerely,

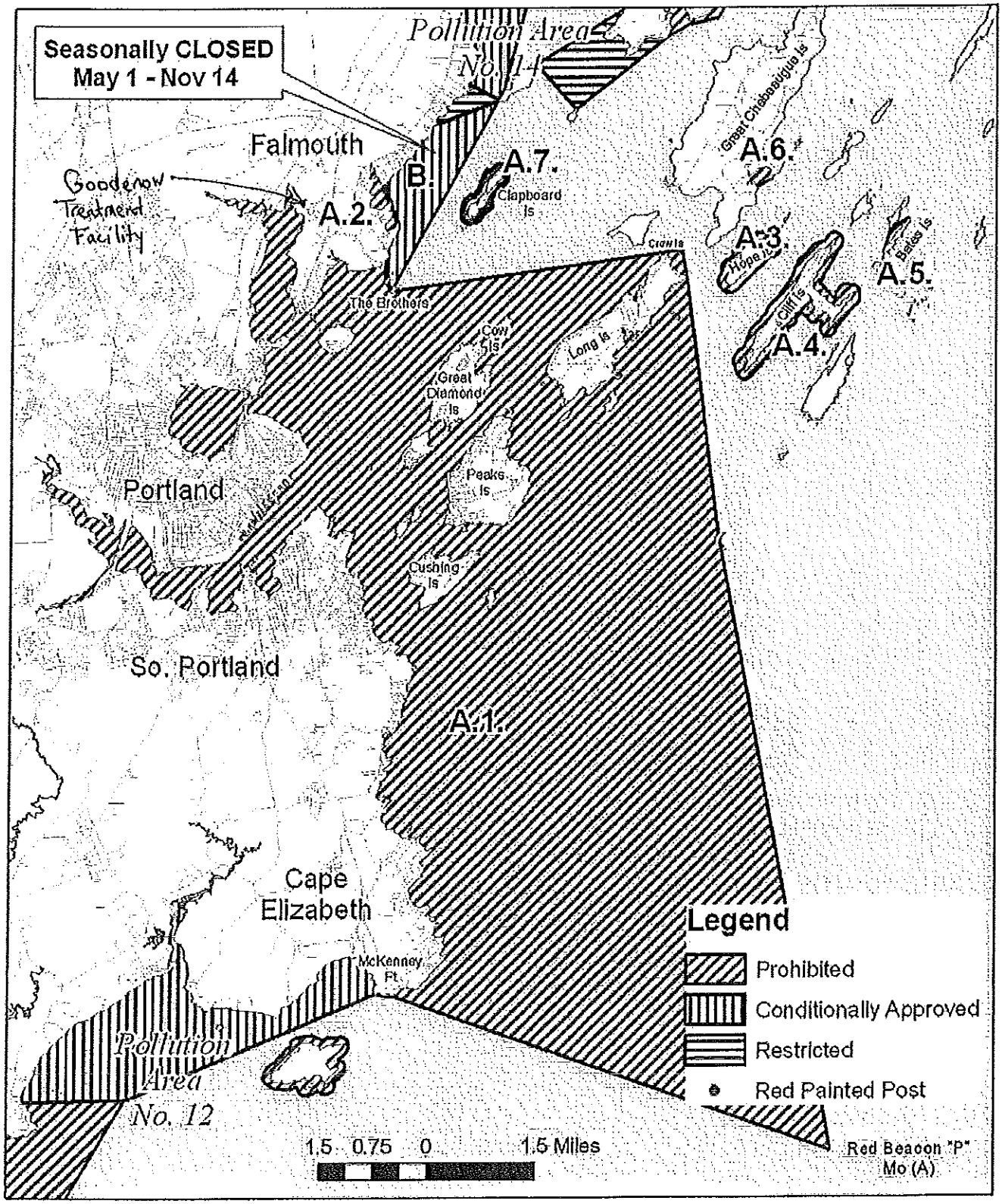
Michelle Mason Webber
Commissioner's Designee – Shellfish Program Coordinator

1:30 PM
(*Effective Time*)

Maine Department of Marine Resources

Pollution Area No. 13, Western Casco Bay and Islands
(Cape Elizabeth to Falmouth)

8/30/12



ATTACHMENT D

FACILITY WET EVALUATION REPORT

Facility: FALMOUTH **Permit Number:** ME0100218 **Report Date:** 11/27/2012

Receiving Water: PRESUMPSCOT RIVER **Rapidmix:** ?

Diluition Factors: 1/4 Acute: 8.30 Acute: 8.300 Chronic: 11

Effluent Limits: Acute (%): 48.193 Chronic (%): 9.091 **Date range for Evaluation: From** 27/Nov/2007 **To:** 27/Nov/2012

Test Type: A_NOEL

Test Species: MYSID SHRIMP

Test Date	Result (%)	Status
05/13/2008	100.000	OK
11/12/2008	100.000	OK
03/02/2009	100.000	OK
09/08/2009	100.000	OK
04/12/2010	100.000	OK
10/18/2010	18.300	EXC
03/14/2011	100.000	OK
10/11/2011	70.000	OK
02/27/2012	100.000	OK
05/14/2012	100.000	OK

Species Summary:

Test Number: 10 **RP:** 1.300 **Min Result (%):** 18.300 **RP factor (%):** 14.077 **Status:** EXC

Test Type: C_NOEL

Test Species: SEA URCHIN

Test Date	Result (%)	Status
05/13/2008	100.000	OK
11/12/2008	22.000	OK
03/02/2009	50.000	OK
09/08/2009	100.000	OK
04/12/2010	100.000	OK
10/18/2010	100.000	OK
03/14/2011	100.000	OK
10/11/2011	22.000	OK
02/27/2012	100.000	OK
05/14/2012	6.250	EXC
06/25/2012	100.000	OK

Species Summary:

Test Number:	11	RP:	1.600	Min Result (%):	6.250	RP factor (%):	3.906	Status:	EXC

ATTACHMENT E

PRIORITY POLLUTANT DATA SUMMARY

Date Range: 27/Nov/2007 - 27/Nov/2012

Facility Name: **FALMOUTH** NPDES: **ME0100218**

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
05/13/2008	1.06	1.06	17	10	0	0	0	7	0	F	0
11/12/2008	1.06	0.84	17	10	0	0	0	7	0	F	0
03/02/2009	1.28	0.99	17	10	0	0	0	7	0	F	0
09/08/2009	0.73	0.79	20	10	0	0	0	10	0	F	0
01/05/2010	0.92	0.92	1	0	0	0	0	1	0	F	0
04/12/2010	1.07	1.04	17	10	0	0	0	7	0	F	0
09/14/2010	0.83	0.82	1	0	0	0	0	1	0	F	0
10/18/2010	0.86	0.88	17	10	0	0	0	7	0	F	0
03/14/2011	1.56	1.88	17	10	0	0	0	7	0	F	0
06/14/2011	0.79	0.77	1	0	0	0	0	1	0	F	0
09/12/2011	0.81	0.81	1	0	0	0	0	1	0	F	0
10/11/2011	1.07	0.86	16	10	0	0	0	6	0	F	0
05/14/2012	1.11	1.12	16	10	0	0	0	6	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group						Clean	Hg
				M	V	BN	P	O	A		
06/25/2012	1.39	0.83	17	10	0	0	0	7	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

FACILITY CHEMICAL DATA REPORT

Data Date Range: 27/Nov/2007 - 27/Nov/2012

Showing all data

Facility name: **FALMOUTH** Permit Number: **ME0100218**

Parameter: COPPER

Test date	Result (ug/l)	Lsthan
05/13/2008	8.000	N
11/12/2008	10.000	N
03/02/2009	10.000	N
09/08/2009	10.000	N
04/12/2010	9.000	N
10/18/2010	7.000	N
03/14/2011	5.000	N
10/11/2011	5.000	N
05/14/2012	23.000	N
06/25/2012	2.000	N

ATTACHMENT F

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
Commissioner

MEPDES#_____Facility Name_____

Since the effective date of your permit, have there been;		NO	YES Describe in comments section
1	Increases in the number, types, and flows of industrial, commercial, or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic?	☐	☐
2	Changes in the condition or operations of the facility that may increase the toxicity of the discharge?	☐	☐
3	Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge?	☐	☐
4	Increases in the type or volume of hauled wastes accepted by the facility?	☐	☐

COMMENTS:

Name (printed): _____

Signature: _____ Date: _____

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

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

Scheduled Toxicity Testing for the next calendar year

Test Conducted	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
WET Testing	☐	☐	☐	☐
Priority Pollutant Testing	☐	☐	☐	☐
Analytical Chemistry	☐	☐	☐	☐
Other toxic parameters [1]	☐	☐	☐	☐

Please place an "X" in each of the boxes that apply to when you will be conducting any one of the three test types during the next calendar year.

[1] This only applies to parameters where testing is required at a rate less frequently than quarterly.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207)760-3143

web site: www.maine.gov/dep

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

CONTENTS

A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

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

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

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

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

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

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

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

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

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

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

5. Bypasses.

(a) Definitions.

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

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

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

(c) Notice.

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

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

(d) Prohibition of bypass.

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

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

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

6. Upsets.

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

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

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

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

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

C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

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

(c) Records of monitoring information shall include:

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

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

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

D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

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

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

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

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

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

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

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

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

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

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

(f) Twenty-four hour reporting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Publicly owned treatment works.

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

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

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

E. OTHER REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEP INFORMATION SHEET

Appealing a 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.