STATE OF MAINE

Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

February 15, 2013

Mr. Philip Pickering
Superintendent
Ogunquit Sewer District
P. O. Box 934
Ogunquit, ME 03907

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100986
Maine Waste Discharge License #W000449-6D-I-R
Final Permit

Dear Mr. Pickering:

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

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

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

Sincerely,

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

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

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

DEPARTMENT ORDER

IN THE MATTER OF

OGUNQUIT SEWER DISTRICT		)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS		)	ELIMINATION SYSTEM PERMIT
OGUNQUIT, YORK COUNTY, MAINE		)	AND
ME0100986		)	WASTE DISCHARGE LICENSE
W000449-6D-I-R	**APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, *et. seq.* and *Conditions of Licenses*, 38 M.R.S.A., Section 414-A *et seq.*, and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the OGUNQUIT SEWER DISTRICT (OSD/permittee hereinafter), with its supportive data, agency review comments, and other related material on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The OSD has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100986/Maine Waste Discharge License (WDL) #W000449-5L-G-R (permit hereinafter) which was issued by the Department on March 12, 2008, for a five-year term. The 3/12/08 permit authorized the discharge of up to a monthly average flow of 1.28 million gallons per day (MGD) of secondary treated sanitary waste waters from a publicly owned treatment works facility to the Atlantic Ocean, Class SB, in Ogunquit, Maine.

PERMIT SUMMARY

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

1. Incorporating the average and maximum technology based concentration limits for total mercury that were originally established in a permit modification on May 23, 2000.

2. Reducing the monitoring frequencies for biochemical oxygen demand (BOD), total suspended solids (TSS) and for fecal coliform bacteria from 2/Week to 1/Week, and for settleable solids from 5/Week to 3/Week based on a statistical evaluation of the previous five years of monitoring data.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 14, 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.

ACTION

THEREFORE, the Department APPROVES the application of the OGUNQUIT SEWER DISTRICT, to discharge up to a monthly average flow of 1.28 million gallons per day of secondary treated sanitary waste waters to the Atlantic Ocean, Class SB, subject to the attached conditions and all applicable standards and regulations:

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

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

3. This permit 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 terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

DONE AND DATED AT AUGUSTA, MAINE, THIS 20th DAY OF February, 2013.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application November 15, 2012.

Date of application acceptance November 16, 2012.

Filed
FEB 20 2013
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection

This Order prepared by GREGG WOOD, BUREAU OF LAND & WATER QUALITY

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 # 002** to the Atlantic Ocean. 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	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	1.28 MGD *[03]*	---	Report MGD *[03]*	---	---	---	Continuous *[99/99]*	Recorder *[RC]*
Biochemical Oxygen Demand (BOD_5) *[00310]*	320 lbs/Day *[26]*	480 lbs/Day *[26]*	534 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]*	320 lbs/Day *[26]*	480 lbs/Day *[26]*	534 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]*	3/Week *[03/07]*	Grab *[GR]*
Fecal Coliform Bacteria (2) *(Year-round)* *[74055]*	---	---	---	15/100 ml (3) *[13]*	---	50/100 ml *[13]*	1/Week *[02/07]*	Grab *[GR]*
Total Residual Chlorine (4) *(April – September)* *(October – March)* *[50060]*	--- ---	--- ---	---	0.1 mg/L *[19]* ---	--- ---	0.3 mg/L 0.65 mg/L *[19]*	1/Day *[01/01]* 1/Day *[03/01]*	Grab Grab *[GR]*
pH (Std. Units) *[00400]*	---	---	---	---	---	6.0-9.0 *[12]*	5/Week *[05/07]*	Grab *[GR]*

SPECIAL CONDITIONS
A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – OUTFALL #002 (cont'd)

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Arsenic (Total) [5] [01002] *(Upon permit issuance)*	Report lbs/Day [26]	---	---	Report ug/L [28]	---	---	1/Year [01/YR]	Composite [24]
Arsenic (Inorganic) [6] [01252] *(Upon EPA method approval)*	0.068 lbs/Day [26]	---	---	Report ug/L [28]	---	---	1/Year [01/YR]	Composite [24]
Mercury (Total) [7] [71900]	---	---	---	19.3 ng/L [3M]	---	29.0 ng/L [3M]	1/Year [01/YR]	Grab [GR]

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.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity [8] **Acute – NOEL**						
Mysidopsis bahia [TDM3E] (Mysid Shrimp)	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Chronic – NOEL						
Arbacia punctulata [TBH3A] (Sea urchin)	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Analytical Chemistry [9,11] [51168]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority Pollutant [10, 11] [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 and analysis must be conducted in accordance with; a) methods approved in 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of 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 RLs. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

1. **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 based on monthly average 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 (DMR).

2. **Fecal coliform bacteria** - Limits and monitoring requirements are in effect on a year-round basis.

3. **Fecal coliform bacteria** – The monthly average limitation is a geometric mean limitation and results shall be reported as such.

4. **Total residual chlorine (TRC)** – Limitations and monitoring requirements for TRC are applicable whenever elemental chlorine or chlorine based compounds are being utilized to disinfect the discharge. For instances when a facility has not disinfected with chlorine based compounds for an entire reporting period, the facility shall report "NODI-9" for this parameter on the monthly DMR. The permittee shall utilize approved test methods that are capable of bracketing the limitations in this permit.

SPECIAL CONDITIONS

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

Footnotes:

5. **Arsenic (Total) – Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic**, the permittee shall sample and analyze the discharge from the facility for total arsenic. The Department's most current reporting limit (RL) for total arsenic is 5 ug/L but may be subject to revision during the term of this permit. All detectable analytical test results shall be reported to the Department including results which are detected below the Department's most current RL at the time of sampling and reporting. Only the detectable results greater than the total arsenic threshold of 13 ug/L (See page 18 of the Fact Sheet attached to this permit) or the Department's RL at the time (whichever is higher) will be considered as a possible exceedence of the water quality criteria for inorganic arsenic. If a test result is determined to be a possible exceedence, the permittee shall submit a toxicity reduction evaluation (TRE) to the Department for review and approval within 45 days of receiving the test result of concern from the laboratory.

6. **Arsenic (Inorganic)** – The limitations and monitoring requirements for inorganic arsenic are not in effect until the USEPA approves of a test method for inorganic arsenic. See Special Condition J, *Schedule of Compliance – Inorganic Arsenic*, of this permit modification. Once effective, compliance will be based on a 12-month rolling average basis beginning 12 months after the effective date of the limits. Following USEPA approval of a test method for inorganic arsenic and based on recent available data, the permittee may request that the Department reopen this permit in accordance with Special Condition M, *Reopening on Permit For Modifications*, of this permit to establish a schedule of compliance for imposition of the numeric inorganic arsenic limitations.

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

   Compliance with the monthly average limitation established in Special Condition A of this permit will be based on the cumulative arithmetic mean of all mercury tests results that were conducted utilizing sampling Methods 1669 and analysis Method 1631E on file with the Department for this facility.

SPECIAL CONDITIONS

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

Footnotes:

8. **Whole Effluent Toxicity (WET)** - Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the acute and chronic critical thresholds of 1 % and 2% 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 50:1 and 102:1 respectively.

   a. **Surveillance level** testing – Waived pursuant to 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* Chapter 530 (2)(D)(3)(b).

   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 requirement, the permittee shall conduct screening level WET testing at a minimum frequency of (1/Year) for both the mysid shrimp and the sea urchin.

   WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days 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 1% and 2%, 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.

SPECIAL CONDITIONS

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

Footnotes:

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

9. **Analytical chemistry** – Refers to a suite of parameters listed in **Attachment A** of this permit.

   a. **Surveillance level** testing – Waived pursuant to 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* Chapter 530 (2)(D)(3)(b).

   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 requirement, the permittee shall conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter).

10. **Priority pollutant testing** – Priority pollutants refers to a suite of parameters listed in **Attachment A** of this permit.

    a. **Surveillance level** testing – Not required pursuant to 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* Chapter 530 (2)(D)(3)(b).

    a. **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 requirement, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per year (1/Year).

11. **Priority pollutant and Analytical chemistry** - 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.

SPECIAL CONDITIONS

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

Footnotes:

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.

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 minimum of a **Grade III** certificate 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.

SPECIAL CONDITIONS

D. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on November 16, 2012; 2) the terms and conditions of this permit; and 3) only from Outfall #002. 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.

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; and

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

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

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

F. 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).

SPECIAL CONDITIONS

G. WET WEATHER MANAGEMENT PLAN

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

The plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events.

The permittee shall review their plan annually and record necessary changes to keep the plan up to date.

H. OPERATION & MAINTENANCE (O&M) PLAN

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

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the 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.

SPECIAL CONDITIONS

I. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

During the effective period of this permit, the permittee is authorized to receive and introduce into the treatment process or solids handling stream **a daily maximum of 3,000 gallons per day and not to exceed a monthly total of 20,000 gallons** 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. At no time shall the addition of transported wastes cause or contribute to effluent quality violations. Transported wastes may not cause an upset of or pass through the treatment process or have any adverse impact on the sludge disposal practices of the wastewater treatment facility.

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

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

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

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

SPECIAL CONDITIONS

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

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

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

7. During wet weather events, transported wastes may be added to the treatment process or solids handling facilities only in accordance with a current Wet Weather Flow Management Plan approved by the Department that provides for full treatment of transported wastes without adverse impacts.

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

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

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

SPECIAL CONDITIONS

J. SCHEDULE OF COMPLIANCE - ARSENIC

Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic are not in effect. During this time frame, the permittee is required by Special Condition A, *Effluent Limitations and Monitoring Requirements*, of this permit to conduct 1/Year sampling and analysis for total arsenic.

Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.

K. 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.

SPECIAL CONDITIONS

L. 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 mailed on or before the thirteenth (13^{th}) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15^{th}) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the Department's compliance inspector (unless otherwise specified) at the following address:

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

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

M. REOPENING OF PERMIT FOR MODIFICATIONS

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

N. 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
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	Possible Exceedence [7] 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
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	PRIORITY POLLUTANTS [4]	Effluent Limits						Possible Exceedence [7]		
		Reporting Limit	Acute[6]	Chronic[6]	Health[6]		Reporting Limit Check	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
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BN	FLUORENE	5									
BN	HEXACHLOROBENZENE	5									
BN	HEXACHLOROBUTADIENE	5									
BN	HEXACHLOROCYCLOPENTADIENE	10									
BN	HEXACHLOROETHANE	5									
BN	INDENO(1,2,3-CD)PYRENE	5									
BN	ISOPHORONE	5									
BN	N-NITROSODI-N-PROPYLAMINE	10									
BN	N-NITROSODIMETHYLAMINE	5									
BN	N-NITROSODIPHENYLAMINE	5									
BN	NAPHTHALENE	5									
BN	NITROBENZENE	5									
BN	PHENANTHRENE	5									
BN	PYRENE	5									
P	4,4'-DDD	0.05									
P	4,4'-DDE	0.05									
P	4,4'-DDT	0.05									
P	A-BHC	0.2									
P	A-ENDOSULFAN	0.05									
P	ALDRIN	0.15									
P	B-BHC	0.05									
P	B-ENDOSULFAN	0.05									
P	CHLORDANE	0.1									
P	D-BHC	0.05									
P	DIELDRIN	0.05									
P	ENDOSULFAN SULFATE	0.1									
P	ENDRIN	0.05									
P	ENDRIN ALDEHYDE	0.05									
P	G-BHC	0.15									
P	HEPTACHLOR	0.15									
P	HEPTACHLOR EPOXIDE	0.1									
P	PCB-1016	0.3									
P	PCB-1221	0.3									
P	PCB-1232	0.3									
P	PCB-1242	0.3									
P	PCB-1248	0.3									
P	PCB-1254	0.3									
P	PCB-1260	0.2									
P	TOXAPHENE	1									
V	1,1,1-TRICHLOROETHANE	5									
V	1,1,2,2-TETRACHLOROETHANE	7									
V	1,1,2-TRICHLOROETHANE	5									
V	1,1-DICHLOROETHANE	5									
V	1,1-DICHLOROETHYLENE (1,1-dichloroethene)	3									
V	1,2-DICHLOROETHANE	3									
V	1,2-DICHLOROPROPANE	6									
V	1,2-TRANS-DICHLOROETHYLENE (1,2-trans-dichloroethene)	5									
V	1,3-DICHLOROPROPYLENE (1,3-dichloropropene)	5									
V	2-CHLOROETHYLVINYL ETHER	20									
V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									

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

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

Notes:

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

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

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

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

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

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

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

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

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

Comments:

ATTACHMENT B

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

Pipe # _____

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

SAMPLE COLLECTION INFORMATION

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

Sampling Location:

Weather Conditions: _____

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

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

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

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

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

Please Enter Effluent Limits for your facility

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

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

CERTIFICATION

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

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT C

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS

Facility Name _____ MEPDES Permit # _____

Pipe # _____

Facility Representative _____ Signature _____

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

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

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

	mysid shrimp	sea urchin
A-NOEL		
C-NOEL		

Effluent Limitations

A-NOEL	
C-NOEL	

Data summary

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

Salinity Adjustment

brine	
sea salt	
other	

place * next to values statistically different from controls

Reference toxicant

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

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET
Date: **January 14, 2013**

PERMIT NUMBER: **ME0100986**
LICENSE NUMBER: **W000449-6D-I-R**

NAME AND ADDRESS OF APPLICANT:

QGUNQUIT SEWER DISTRICT
School Street, P.O. Box 934
Ogunquit, ME. 03907

COUNTY: **York County**

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

School Street
Ogunquit, ME. 03907

RECEIVING WATER(S)/CLASSIFICATION: **Atlantic Ocean/Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Philip Pickering, Supt.**
(207) 646-3271
e-mail: ogunquitsd@me@verizon.net

1. APPLICATION SUMMARY

a. Application: - The Ogunquit Sewer District (OSD/permittee hereinafter) has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100986/Maine Waste Discharge License (WDL) #W000449-5L-G-R (permit hereinafter) which was issued by the Department on March 12, 2008, for a five-year term. The 3/12/08 permit authorized the discharge of up to a monthly average flow of 1.28 million gallons per day (MGD) of secondary treated sanitary waste waters from a publicly owned treatment works facility to the Atlantic Ocean, Class SB, in Ogunquit, Maine. See **Attachment A** of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont'd)

b. Source Description: The waste water treatment facility was originally constructed in 1963 and currently serves a population of approximately 1,400 users in the winter and up to 50,000 users during the summer months. The treatment facility receives sanitary waste waters generated by residential and commercial entities within the District's boundaries and does not have any industrial users contributing more than 10% of the flow or pollutant loading to the collection and or waste water treatment facility.

The sanitary sewer collection system consists of approximately eleven (11) miles of pipe with twelve (12) pump stations. Pumping stations #1, #2 and #4 have stand-by generators with an automatic transfer switch. All pumping stations have manual power transfer switches for the use of the District's three (3) portable generators. All pumping stations are equipped with visual and audio alarms as well as radio communication to the treatment facility where two (redundant) telemetry notification systems are engaged. The 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 up to 3,000 gallons per day and 20,000 gallons per month of transported from local haulers. 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. The facility maintains an up-to-date transported waste management plan that has reviewed and approved by the Department.

c. Waste Water Treatment: The facility provides a secondary level of treatment via an activated sludge system operated in an extended aeration mode from November through March of each year and in the conventional aeration mode from April through October of each year. The treatment process includes an influent flow meter, a bar screen, grit chamber, four aeration basins (totaling 532,000 gallons) with fine bubble diffused aeration, two secondary clarifiers (each 45 feet in diameter and 12 feet deep) and a serpentine chlorine contact tank with a volume of 66,000 gallons followed by a flow meter. Two of the aeration basins have been modified to incorporate selector technology that have created anoxic zones prior to aeration zones to alleviate operational problems with nitrification. The effluent is disinfected on a year-round basis with sodium hypochlorite and de-chlorinated with sodium bisulfite before discharge to the receiving waters. The waste water treatment facility is equipped with a 350-kilowatt generator that will enable the facility to maintain a secondary level of treatment in the event of a power outage. See **Attachment B** for a schematic of the waste water treatment facility. The treated effluent is conveyed to the Atlantic Ocean for discharge via a pipe measuring fourteen (14) inches in diameter extended offshore approximately 1,950 feet. The end of

1. APPLICATION SUMMARY (cont'd)

the pipe is fitted with a 3-port diffuser to enhance mixing of the treated effluent with the receiving water. The facility has been disinfecting the discharge on a year-round basis since 1997 due to the potential for the harvesting of surf clams.

Sludge handling equipment at the facility includes three aerobic digestors with a total holding capacity of 320,000 gallons. The sludge is de-watered via a two-meter belt filter press and is currently being hauled to a processing facility in Plymouth, Maine .

2. PERMIT SUMMARY

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

1. Incorporating the average and maximum technology based concentration limits for total mercury that were originally established in a permit modification on May 23, 2000.

2. Reducing the monitoring frequencies for biochemical oxygen demand (BOD), total suspended solids (TSS) and fecal coliform bacteria from 2/Week to 1/Week, and for settleable solids from 5/Week to 3/Week based on a statistical evaluation of the previous five years of monitoring data.

b. History: Regulatory actions for the OSD facility include, but are not limited to;

September 30, 1991 – The EPA issued a renewal of NPDES permit #ME0100986 for a five-year term.

July 15, 1993 – The EPA issued a modification of NPDES permit #ME0100986. The modification reduce whole effluent toxicity (WET) testing from 1/Quarter to 1/Year and reduced the monitoring frequency for enterococci and fecal coliform bacteria from 1/Day to 3/Week between October 1st and March 31st.

September 30, 1996 – The EPA issued a renewal of NPDES permit #ME0100986 for a five-year term.

March 23, 1998 – The Department issued WDL #W000449-46-D-R for a five-year term.

May 23, 2000 – The Department administratively modified the WDL for the OSD facility by establishing interim monthly average and daily maximum concentration limits for mercury.

2. PERMIT SUMMARY (cont'd)

February 25, 2003 – The Department issued combination MEPDES permit #ME0100986/WDL #W000449-5L-F-R for a five-year term.

April 20, 2006 - The Department issued a modification of the 2/25/03 MEPDES permit by incorporating WET and chemical specific testing requirements pursuant to Department rule Chapter 530, promulgated on October 12, 2005.

March 12, 2008 – The Department issued combination MEPDES permit #ME0100986/WDL #W000449-5L-G-R for a five-year term.

February 6, 2012 - The Department issued a modification of MEPDES permit #ME0100986/WDL #W000449-5L-G-R for a reduction in the mercury testing frequency for total mercury from 4/Year to 1/Year based on *Certain deposits and discharges prohibited*, 38 M.R.S.A., § 420 sub-§1-B(F).

November 15, 2012 – The permittee submitted a timely and complete application to the Department for the renewal of combination MEPDES permit #ME0100986/WDL #W000449-5L-G-R which was issued by the Department on March 12, 2008, for a five-year term.

3. CONDITIONS OF PERMITS

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

4. RECEIVING WATER STANDARDS

Maine law 38 M.R.S.A., §469(8) classifies the Atlantic Ocean at the point of discharge as a Class SB waterway. Maine law, 38 M.R.S.A., §465-B(2) describes the standards for classification of Class SB waterways.

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

4. RECEIVING WATER QUALITY STANDARDS (cont'd)

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

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

5. EXISTING WATER QUALITY CONDITIONS

The 2010 Integrated Water Quality Monitoring and Assessment Report published by the Department pursuant to Section 305(b) of the Federal Water Pollution Control Act lists the Ogunquit River – Oqunquit and Moody Beaches as marine waters with insufficient data or information to determine attainment of water quality standards. Attainment in this context is in regard to the designated use of harvesting of shellfish. Currently, DMR shellfish harvesting Area #6 - Ogunquit River to Webhannet River (Ogunquit and Wells) is closed to the harvesting of shellfish due to insufficient (limited) ambient water quality data to meet the standards in the National Shellfish Sanitation Program.

The Maine Department of Marine Resources (DMR) assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The DMR has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality. The DMR traditionally closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (instream thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions. In addition, the DMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Thus, DMR shellfish

5. EXISTING WATER QUALITY CONDITIONS

harvesting Area #6 is closed to the harvesting of shellfish due to insufficient or limited ambient water quality data to determine that the area meets the standards in the National Shellfish Sanitation Program. The shellfish closure area is identified on the map included as **Attachment C** of this Fact Sheet. The Department is making the determination that compliance with the fecal coliform bacteria and other secondary wastewater treatment limits established in this permitting action ensure that the discharge of secondary treated wastewater from the permittee's wastewater treatment facility will not cause or contribute to the failure of the receiving waters to meet the standards of its designated classification.

In addition, all estuarine and marine waters of the State are listed as, *"Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants."* Impairment in this context refers to the estuarine and marine waters partially supporting the designated use of fishing and harvesting of shellfish due to elevated levels of mercury, PCBs, dioxin, and other persistent bioaccumulating substances in tissues of some fish and in lobster tomalley. Pursuant to Maine law, 38 M.R.S.A. §420(1-B)(B), *"a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11."* The Department has established interim monthly average and daily maximum mercury concentration limits for this facility and has been in compliance with said limits. See the discussion in 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 1.28 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 Discharge Monitoring Report (DMR) data for the period January 2008 – April 2012 indicates the following:

Flow (DMR=52)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	1.28	0.240 – 1.367	0.622
Daily Maximum	Report	0.430 – 3.407	1.074

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

b. Dilution Factors – 06-096 CMR, 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. Based on the location and configuration of the outfall pipe, the Department has determined that at the full permitted flow of 1.28 MGD, the discharge from the OSD waste water treatment facility will be diluted by the following factors:

Acute = 50:1 Chronic = 102:1 Harmonic mean [(1)] = 306:1

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 concentration limits of 30 mg/L and 45 mg/L respectively, that were based on secondary treatment requirements of the 06-0906 CMR Department rule Chapter 525(3)(III). The maximum daily BOD5 and TSS concentration limits of 50 mg/L were based on a Department best professional judgment of best practicable treatment (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 technology based mass limitations that are being carried forward in this permitting action and are based on a monthly average limit of 1.28 MGD. The mass limits were derived as follows:

Monthly average: (1.28 MGD)(8.34)(30 mg/L) = 320 lbs/day
Weekly average: (1.28 MGD)(8.34)(45 mg/L) = 480 lbs/day
Daily Maximum: (1.28 MGD)(8.34) (50 mg/L) = 534 lbs/day

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

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

A review of the DMR data for the period January 2008 – April 2012 indicates the monthly average and daily maximum mass and concentration values have been reported as follows:

BOD Mass (DMR=53)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	320	6 – 110	35
Daily Maximum	534	14 - 354	73

BOD Concentration (DMR=53)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	3 - 12	6
Daily Maximum	50	4 - 23	10

TSS mass (DMR=53)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	320	7 – 81	23
Daily Maximum	534	9 – 187	52

TSS concentration (DMR=53)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	2 – 10	4
Daily Maximum	50	3 - 21	8

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 & MONITORING REQUIREMENTS (cont'd)

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

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

Though EPA's 1996 Guidance recommends evaluation of the most current two-years of effluent data for a parameter, however, the Department is considering 53 months of data (January 2008 – April 2012).

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

BOD

Long term average = 35 lbs/day
Monthly average limit = 320 lbs/day
Current monitoring frequency = 2/Week

$$\text{Ratio} = \frac{35 \text{ lbs/day}}{320 \text{ lbs/day}} = 11\%$$

According to Table I of the EPA Guidance, a 2/Week monitoring requirement can be reduced to 1/Month. The Department is making a best professional judgment that a monitoring frequency of 1/Month is not sufficient to determine on-going compliance at the facility. The Department recently adopted a policy to not reduce monitoring frequencies to more than 50% of their current monitoring frequency. Therefore, the monitoring frequency for BOD has been reduced to 1/Week in this permitting action.

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

TSS

Long term average = 23 lbs/day
Monthly average limit = 320 lbs/day
Current monitoring frequency = 2/Week

Ratio = 23 lbs/day = 7%
320 lbs/day

According to Table I of the EPA Guidance, a 2/Week monitoring requirement can be reduced to 1/Month. As with BOD, the Department is making a best professional judgment that a monitoring frequency of 1/Month is not sufficient to determine on-going compliance at the facility and said reduction would be greater than the Department's policy of limited the reduction to no more than 50% of the current monitoring frequency. Therefore, the monitoring frequency for TSS has been reduced to 1/Week in this permitting action.

This permitting action is carrying forward the requirement of 85% removal for BOD and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3) except in the circumstances where the monthly average influent concentration is less than 200 mg/L.

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

BOD % Removal (DMRs = 53)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	91 – 98	96

TSS % Removal (DMRs = 35)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	91 – 99	96

d. Settleable Solids – The previous permitting established a daily maximum concentration limit of 0.3 ml/L for settleable solids and is considered by the Department as BPT for secondary treated waste waters that is being carried forward in this permitting action.

A review of the monthly DMR data for the period January 2008 – April 2012 indicates settleable solids have been reported as follows:

Settleable solids concentration (DMRs 53)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	0.0 - 0.01	0.0

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

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

Long term average = 0.0 ml/L
Daily maximum limit = 0.3 ml/L
Current monitoring frequency = 5/Week

Ratio = $\frac{0.0 \text{ ml/L}}{0.3 \text{ ml/L}} = 0\%$

According to Table I of the EPA Guidance, a 5/Week monitoring requirement can be reduced to 1/Week. Given the Department's policy to not reduce monitoring frequencies to more than 50% of their current monitoring frequency, the monitoring frequency for settleable solids has been reduced to 3/Week in this permitting action.

e. Fecal coliform bacteria – The previous permitting action established a 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. A review of the DMR data for the period January 2008 – April 2012 indicates 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	1 – 10	2
Daily Maximum	50	1 – 48*	7*

* Does not include a test result of 600/100 ml in February 2011.

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

Long term average = 2 col/100 ml
Daily maximum limit = 15 col/100 ml
Current monitoring frequency = 2/Week

Ratio = $\frac{2 \text{ col/ 100 ml}}{15 \text{ col/100 ml}} = 13\%$

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

According to Table I of the EPA Guidance, a 2/Week monitoring requirement can be reduced to 1/Month. The Department is making a best professional judgment that a monitoring frequency of 1 month is not sufficient to determine on-going compliance at the facility. Given the Department's policy to not reduce the monitoring frequencies to more than 50% of their current monitoring frequency, this permitting action is reducing the monitoring frequency for fecal coliform bacteria to 1/Week.

f. Total Residual Chlorine - The previous licensing action established seasonal monthly average and daily maximum technology based limits of 0.1 mg/L and 0.3 mg/L respectively for the period April – September and a daily maximum water quality based limit of 0.65 mg/L for the period October - March.

Limits on total residual chlorine (TRC) are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Permitting actions by the Department impose the more stringent of water quality or technology based limits.
End-of-pipe water quality based concentration thresholds may be calculated as follows:

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	13 ug/L	7.5 ug/L	50:1	102:1	0.65 mg/L	0.76 mg/L

Example calculation: Acute – 0.013 mg/L (50) = 0.65 mg/L

The Department has established a daily maximum best practicable treatment (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 best practicable treatment limits of 0.3 mg/L and 0.1 mg/L respectively. Because the facility needs to de-chlorinate the discharge from April – September of each year to meet the calculated water quality thresholds, this permitting action is carrying forward the daily maximum and monthly average BPT limitations of 0.3 mg/L and 0.1 mg/L.

For the period October – March when influent flow to the treatment facility is significantly lower than April – September (tourist season) the permittee has demonstrated through testing that it can meet both the fecal coliform bacteria and water quality based TRC limits without utilizing dechlorination compounds. As a result, this permit is carrying forward the daily maximum water quality based limit of 0.65 mg/L for October – March.

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

A review of the DMR data for the period January 2008 – April 2012 indicates the monthly average and daily maximum concentration values have been reported as follows:

Total residual chlorine (April – September DMRs=25)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	0.1	<0.03 – 0.05	0.01
Daily Maximum	0.3	0.03 – 0.43	0.08

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

Long term average = 0.01 mg/L
Daily maximum limit = 0.1 mg/L
Current monitoring frequency = 1/Day

Ratio = $\frac{0.01 \text{ mg/L}}{0.1 \text{ mg/L}}$ = 10%

According to Table I of the EPA Guidance, a 1/Day monitoring requirement can be reduced to 1/Week. However, the Department's recently adopted policy on monitoring frequency reductions does not provide reductions for water quality based limitations. Therefore, the monitoring frequency of 1/Day for total residual chlorine is being carried forward in this permitting action.

Total residual chlorine (October - March DMRs=24)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	0.65	0.0 – 0.59	0.3

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

Long term average = 0.3 mg/L
Daily maximum limit = 0.65 mg/L
Current monitoring frequency = 1/Day

Ratio = $\frac{0.3 \text{ mg/L}}{0.65 \text{ mg/L}}$ = 46%

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

According to Table I of the EPA Guidance, a 1/Day monitoring requirement can be reduced to 3/Week. However, the Department's recently adopted policy on monitoring frequency reductions does not provide reductions for water quality based limitations. Therefore, the monitoring frequency of 1/Day for total residual chlorine is being carried forward in this permitting action.

Should future testing indicate the permittee is unable to consistently meet the fecal coliform bacteria limits or daily maximum water quality based TRC limit during the period October - March, the Department reserves the right (pursuant to Special Condition M of this permit) to require the permittee to return to year-round dechlorination, thus be required to the meet the BPT limits of 0.3 mg/L as a daily maximum and 0.1 mg/L as a monthly average on a year-round basis.

g. pH – The previous permitting action establishing a pH range limit of 6.0 –9.0 standard units pursuant to a Department rule found at Chapter 525(3)(III)(c) and are considered BPT. The limits and a monitoring frequency of 1/Day are being carried forward in this permitting action. A review of the DMR data for the period January 2008 – April 2012 indicates the pH range limitation has never been exceeded. The monitoring frequency of 5/Week is being carried forward in this permitting action.

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

WET, priority pollutant and analytical chemistry testing as required by Chapter 530 is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and 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 III frequency category as the facility has a chronic dilution factor ≥100:1 but <500:1. Chapter 530(2)(D)(1) specifies that routine surveillance and screening level testing requirements are as follows:

Screening level testing

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

Surveillance level testing

Level	WET Testing	Priority pollutant testing	Analytical chemistry
III	1 per year	Not required	1 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 III facilities *"...may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)."*

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

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.*"

WET test evaluation

On November 21, 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 does not have any WET test results for the mysid shrimp or sea urchin that exceed or have a reasonable potential to exceed the critical acute or chronic water quality thresholds of 1.0% and 2.0% respectively. The critical thresholds are calculated as the mathematical inverse of the applicable dilution factors of 50:1 as an acute and 102:1 as a chronic.

Based on the results of the 11/21/12 statistical evaluation, the permittee qualifies for the Chapter 530(2)(D)(3)(d) testing waiver for WET test species. Therefore, this permit action waives surveillance level testing for the first three years of the term of the permit.

Chapter 530 §(2)(D) states:

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

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

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

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

Special Condition K, *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.

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

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

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

Analytical chemistry & priority pollutant testing evaluation

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 background levels of metals in the water column of the Atlantic Ocean in the vicinity of the Ogunquit outfall. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

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

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.*"

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

As with WET test results, on 11/21/12, 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 indicates one test result of 12 ug/L (March 2009) for total arsenic has a reasonable potential to exceed the human health criteria (organisms only) of 0.028 ug/L.

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 establishes monthly average (chronic) end-of-pipe (EOP) mass and concentrations limits for inorganic arsenic. The derivation for these limits is as follows:

Arsenic (Inorganic)

HH AWQC (organisms only) = 0.028 ug/L
Harmonic mean dilution factor = 306:1

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
EOP = [306 x 0.75 x 0.028 ug/L] + [0.25 x 0.028 ug/L] = 6.4 ug/L

Based on a permitted flow of 1.28 MGD, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Month Avg. Mass Limit
Inorganic Arsenic	6.4 ug/L	0.025 lbs/day

Ex. Calculation: Inorganic Arsenic - $\frac{(6.4 \text{ ug/L})(8.34)(1.28 \text{ MGD})}{1000 \text{ ug/mg}}$ = 0.068 lbs/day

Department rule Chapter 530 (C)(6) states:

All chemical testing must be carried out by approved methods that permit detection of a pollutant at existing levels in the discharge or that achieve detection levels as specified by the Department. When chemical testing results are reported as less then, or detected below the Department's specified detection limits, those results will be considered as not being present for the purposes of determining exceedences of water quality criteria.

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

The USEPA has not approved a test method for inorganic arsenic as of the date of issuance of this permit. Therefore, there is no way for the permittee to formally demonstrate compliance with the monthly average water quality based mass and concentration limits for inorganic arsenic established in this permitting action. Therefore, beginning upon issuance of this permit and lasting through the date in which the USEPA approves a test method for inorganic arsenic the permittee is being required to monitor for total arsenic. Once a test method is approved, the Department will notify the permittee in writing and the limitations and monitoring requirements for inorganic arsenic become effective thereafter.

As of the date of this permitting action, the Department has limited data on the percentage of inorganic arsenic (approximately 50%) in total arsenic test results. Based on a literature search conducted by the Department, the inorganic fraction can range from 1% - 99% depending on the source of the arsenic. Generally speaking, ground water supplies derived from bedrockwells will likely tend to have higher fractions of inorganic arsenic (As^{+3}-arsentite and/or As^{+5}- arsenate) than one may find in a food processing facility where the inorganic fraction is low and the organic fraction (arsenobetaine, arsenoribosides) is high. Until the Department and the regulated community in Maine

develop a larger database to establish statistically defensible ratios of inorganic and organic fractions in total arsenic test results, the Department is making a rebuttable presumption that the effluent contains a ratio of 50% inorganic arsenic and 50% organic arsenic in total arsenic results.

Being that the only approved test methods for compliance with arsenic limits established in permits is for total arsenic, the Department converted the water quality based end-of pipe monthly average concentration value of 6.4 ug/L for inorganic arsenic calculated on page 18 of this Fact Sheet into an equivalent total arsenic threshold (assuming 50% of the total arsenic is inorganic arsenic). This results in a total arsenic end-of-pipe monthly average concentration threshold of 13 ug/L. The calculation is as follows:

$$\frac{\text{6.4 ug/L inorganic arsenic}}{\text{0.5 ug/L inorganic arsenic/ 1.0 ug/L total arsenic}} = \text{13 ug/L total arsenic}$$

Therefore, a total arsenic value greater than 13 ug/L is potentially exceeding the water quality based end-of pipe monthly average concentration value of 6.4 ug/L for inorganic arsenic. Only the results greater than the total arsenic threshold of 13 ug/L will be considered a potential exceedence of the inorganic limit of 6.4 ug/L.

If a test result is determined to be a potential exceedence, the permittee shall submit a toxicity reduction evaluation (TRE) to the Department for review and approval within 45 days of receiving the test result of concern from the laboratory. Contact the Department's compliance inspector for a copy of the Department's December 2007 guidance on conducting a TRE for arsenic.

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

Maine law, 38 M.R.S.A., §414-A(2), Schedules of Compliance states "*Within the terms and conditions of a license, the department may establish a schedule of compliance for a final effluent limitation based on a water quality standard adopted after July 1, 1977. When a final effluent limitation is based on new or more stringent technology-based treatment requirements, the department may establish a schedule of compliance consistent with the time limitations permitted for compliance under the Federal Water Pollution Control Act, Public Law 92-500, as amended. A schedule of compliance may include interim and final dates for attainment of specific standards necessary to carry out the purposes of this subchapter and must be as short as possible, based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards.*" Special Condition J, *Schedule of Compliance - Arsenic*, of this permit establishes a schedule as follows:

> *Beginning upon issuance of this permit modification and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic are not in effect. During this time frame, the permittee is required by Special Condition A, Effluent Limitations and Monitoring Requirements, of this permit to conduct 1/Quarter sampling and analysis for total arsenic.*
>
> *Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.*

The schedule of compliance reserves the final date for compliance with the limit for inorganic arsenic. This reservation stems from the fact the EPA has no schedule for approving a test method for inorganic arsenic nor does the Department have any authority to require the EPA to do so. Therefore, the Department considers the aforementioned schedule for inorganic arsenic to be as short as possible given the technological (or lack thereof) issue of not being able to sample and analyze for inorganic arsenic with an approved method.

Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, *Schedules of Compliance* sub-§3, *Interim dates*, states in part, "*if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.*

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

(i) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

Special Condition A, *Effluent Limitations and Monitoring Requirements*, of this permit requires that beginning upon issuance of this permit and lasting through USEPA approval of a test method for inorganic arsenic, the permittee shall conduct 1/Year monitoring for total arsenic which is equivalent to routine surveillance level monitoring in Chapter 530. Should the test method approval for inorganic arsenic extend more than one year from the date of the issuance of this permit the sampling and analysis for total arsenic will serve to satisfy the interim requirements specified by Department rule, Chapter 523, *Waste Discharge License Conditions*, Section 7, *Schedules of Compliance*, Sub-section 3, *Interim dates.*

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 11/21/12 statistical evaluation that exceed or have a reasonable potential to exceed applicable ambient water quality criteria are not being established in this permitting action.

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

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

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 III facilities *"...may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)."* Based on the results of the 11/21/12 statistical evaluation, the permittee qualifies for the testing waiver. Therefore, this permitting action does not establish surveillance level priority pollutant and analytical chemistry testing (with the exception of arsenic) for the first three years and the fifth year of the term of this 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 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, screening level testing shall be conducted as follows:

Level	Priority pollutant testing	Analytical chemistry
III	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 K, *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.

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

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 thereby administratively modifying WDL #W000449-5L-F-R by establishing interim monthly average and daily maximum effluent concentration limits of 19.3 parts per trillion (ppt) and 29.0 ppt, respectively, and a minimum monitoring frequency requirement of four (4) tests per year for mercury. It is noted the limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as limitations and monitoring frequencies are regulated separately through 38 M.R.S.A.§ 413 and 06-096 CMR 519. However, the interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the ambient water quality criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of the Department's data base for the period January 2004 – May 2012 indicates mercury test results have ranged from 1.0 ppt to 21 ppt with an arithmetic mean (n=32) of 3.3 ppt.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has made a determination based on a best professional judgment 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 SB classification.

8. PUBLIC COMMENTS

Public notice of this application was made in the York County Coast Star newspaper on or about November 15, 2012. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

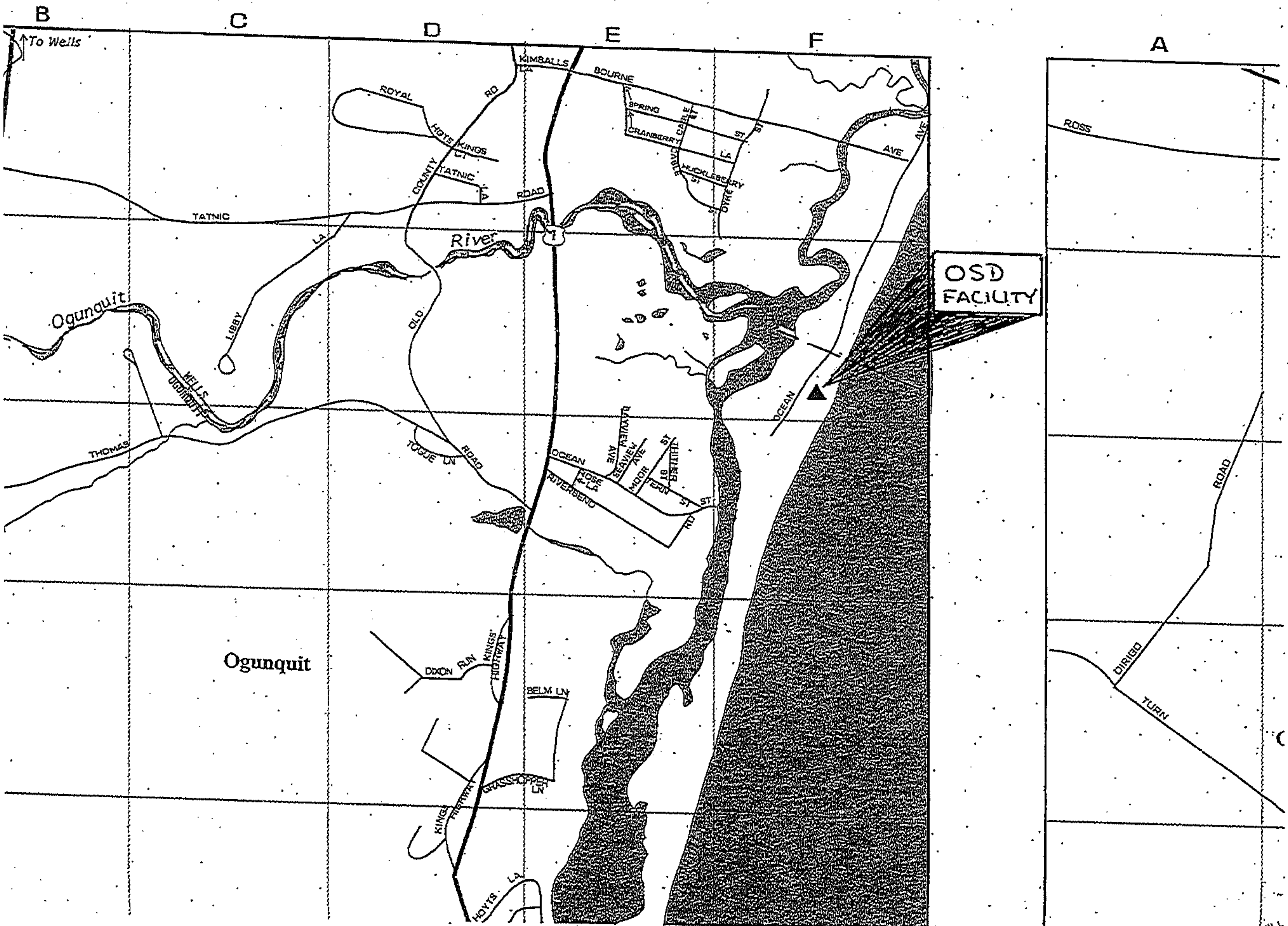
Additional information concerning this permitting action may be obtained from and written comments should be sent to:

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

10. RESPONSE TO COMMENTS

During the period of January 14, 2013, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the Ogunquit facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

ATTACHMENT A



B
C
D
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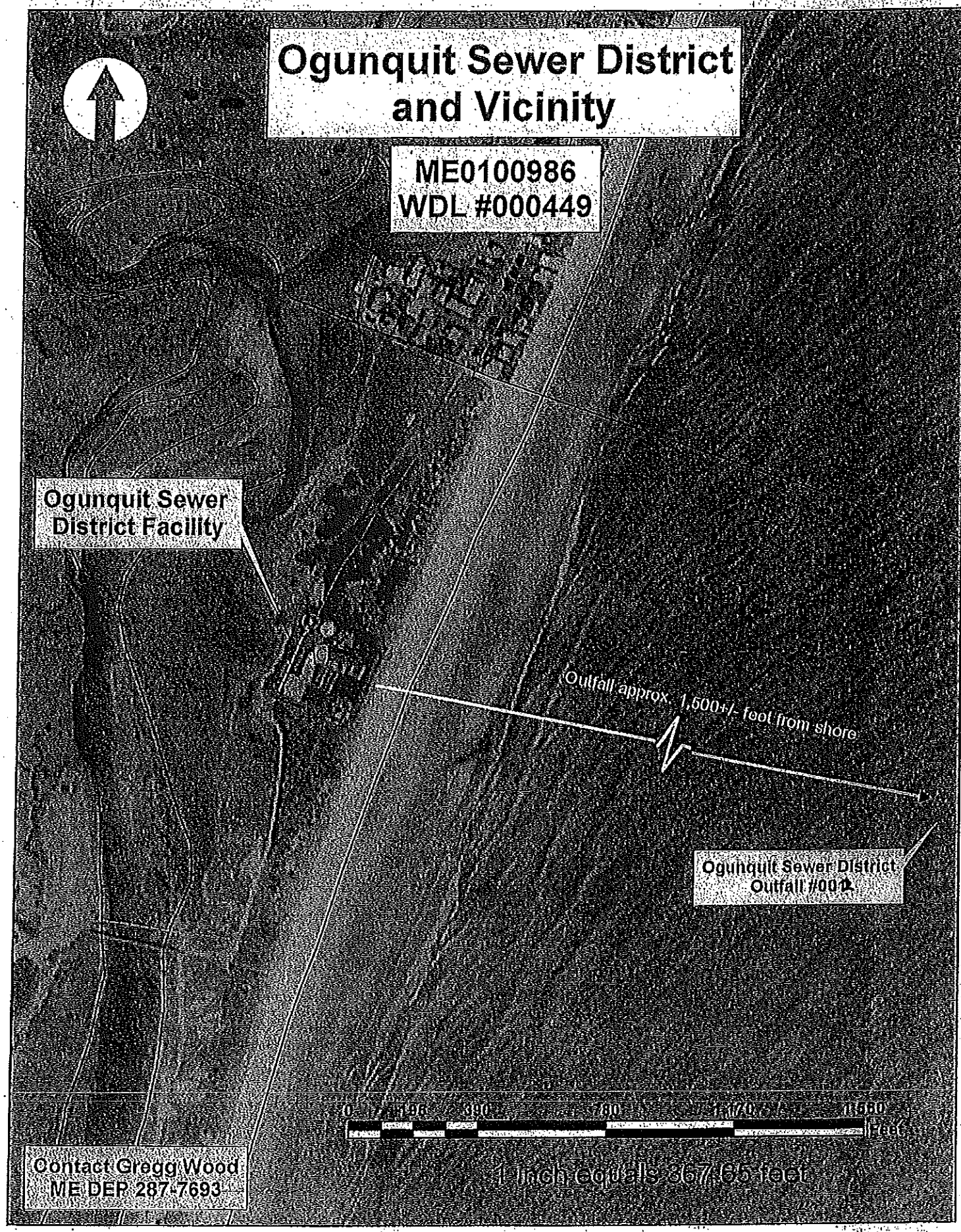
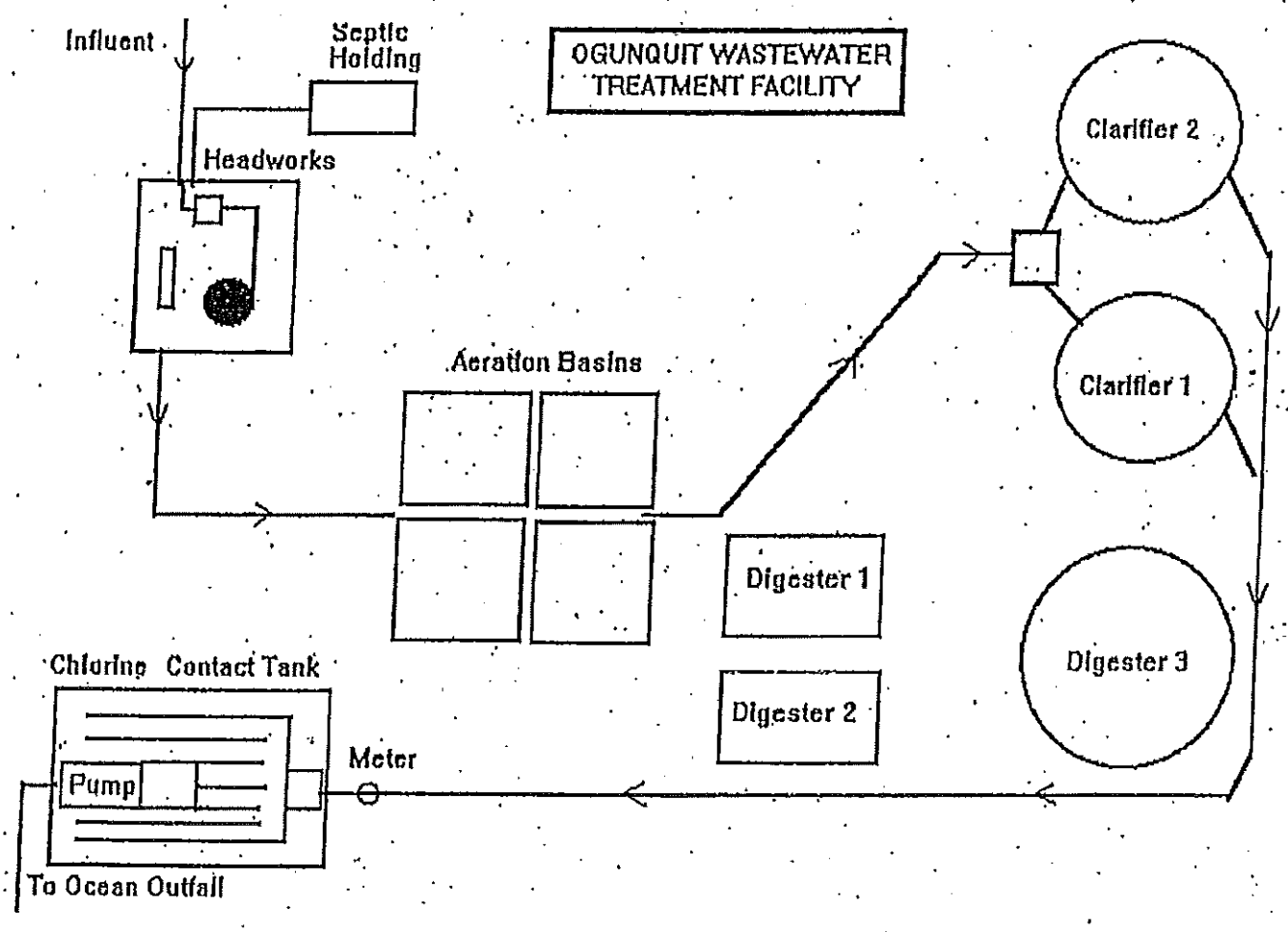
A
To Wells
KIMBALLS LA
BOURNE
ROYAL
RD
HOYTS
KINGS CT
TATNIC
LA
COUNTY
ROAD
TATNIC
LA
SPRING
CRANBERRY
CABLE
ST
LA
HUCKLEBERRY
DYRE
ST
AVE
AVE
River
Ogunquit
LIBBY
OLD
WELLS
OGUNQUIT
THOMAS
TOGUE LN
ROAD
OCEAN
OCEAN
BAYVIEW AVE
SEAVIEW AVE
MOOR
TUTTLE ST
FERN ST
ROSE LA
RIVERSEND
RD
ST
OSD
FACILITY
Ogunquit
DIXON RUN
KINGS' HIGHWAY
BELM LN
GRASSHOPPER LN
KINGS HIGHWAY
HOYTS LA
ROSS
ROAD
DIRIGO
TURN
HILL


Ogunquit Sewer District and Vicinity
ME0100986
WDL #000449
Ogunquit Sewer District Facility
Outfall approx. 1,600+/- feet from shore
Ogunquit Sewer District Outfall #001
0
390
780
1,170
1,560
Feet
1 inch equals 367.65 feet
Contact Gregg Wood
ME DEP 287-7693

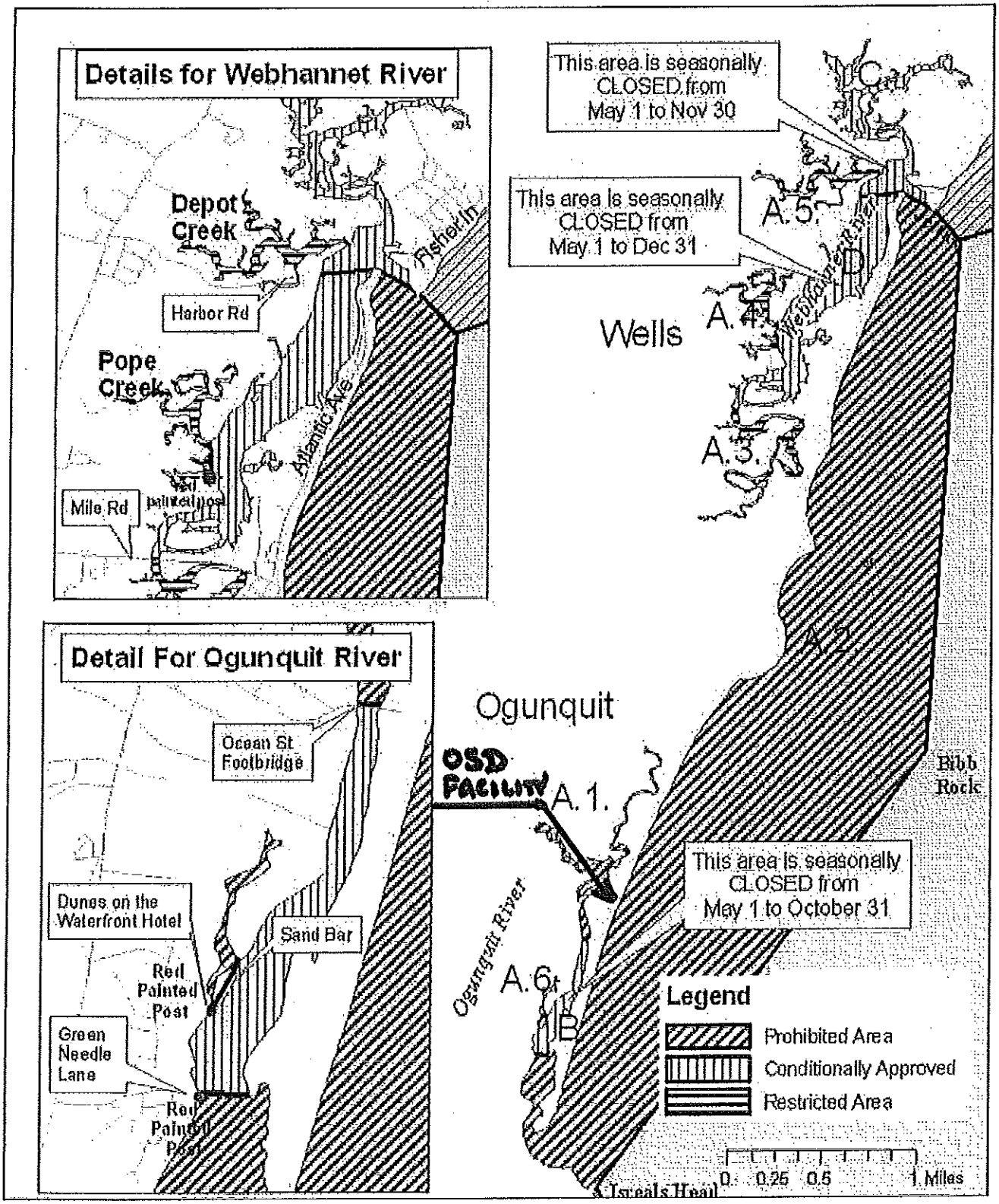
ATTACHMENT B


OGUNQUIT WASTEWATER TREATMENT FACILITY
Influent
Septic Holding
Headworks
Aeration Basins
Clarifier 2
Clarifier 1
Digester 1
Digester 2
Digester 3
Chlorine Contact Tank
Pump
Meter
To Ocean Outfall

Maine Department of Marine Resources

Pollution Area No. 6

Ogunquit River to Webhannet River (Ogunquit and Wells) **01/19/2011**



ATTACHMENT D

WET TEST REPORT

Data for tests conducted for the period

14/Jan/2008 - 14/Jan/2013

OGUNQUIT NPDES= ME0010098 Effluent Limit: Acute (%) = 2.000 Chronic (%) = 0.980

Species	Test	Percent	Sample date	Critical %	Exception	RP
MYSID SHRIMP	A_NOEL	100	07/11/2012	2.000		
SEA URCHIN	C_NOEL	100	07/11/2012	0.980		

ATTACHMENT E

PRIORITY POLLUTANT DATA SUMMARY

Date Range: 14/Jan/2008 - 14/Jan/2013

Facility Name: **OGUNQUIT** NPDES: **ME0100986**

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
02/20/2008	0.77	0.91	11	10	0	0	0	1	0	F	0
04/23/2008	0.64	0.52	1	1	0	0	0	0	0	F	0
07/31/2008	0.87	0.81	1	1	0	0	0	0	0	F	0
10/23/2008	0.64	0.30	1	1	0	0	0	0	0	F	0
03/03/2009	0.63	0.57	1	1	0	0	0	0	0	F	0
08/11/2009	0.98	0.94	1	1	0	0	0	0	0	F	0
11/04/2009	0.51	0.14	1	1	0	0	0	0	0	F	0
02/24/2010	0.33	0.27	1	1	0	0	0	0	0	F	0
04/26/2010	0.56	0.19	1	1	0	0	0	0	0	F	0
07/28/2010	0.90	0.93	1	1	0	0	0	0	0	F	0
11/09/2010	0.39	0.99	1	1	0	0	0	0	0	F	0
02/06/2011	0.29	0.33	1	1	0	0	0	0	0	F	0
05/24/2011	0.63	0.72	1	1	0	0	0	0	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
07/25/2011	0.80	0.71	1	1	0	0	0	0	0	F	0

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
12/16/2011	0.35	0.29	1	1	0	0	0	0	0	F	0

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
02/16/2012	0.34	0.43	18	13	0	0	0	5	0	F	0

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
04/30/2012	0.43	0.49	12	10	0	0	0	2	0	F	0

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
07/12/2012	0.79	0.73	124	14	28	46	25	0	11	F	0

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
10/22/2012	0.54	0.42	12	10	0	0	0	2	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

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.