STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

September 2, 2015

Mr. Michael McAllian
Webber Tanks Inc.
P.O. Drawer CC
Bucksport, ME. 04416
Mmcallian@webbertanks.com

Transmitted via electronic mail
Delivery confirmation requested

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0001457
Maine Waste Discharge License (WDL) Application #W002566-5S-E-R
Final Permit

Dear Mr. McAllian:

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

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

If you have any questions regarding the matter, please feel free to call me at 215-1579.

Sincerely,

Yvette Meunier

Yvette M. Meunier
Division of Water Quality Management
Bureau of Water Quality

Enc.
cc: Matthew Hight, DEP/SMRO
Sandy Mojica, USEPA
Marelyn Vega, USEPA
Olga Vergara, USEPA
Rick Carvalho, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

WEBBER TANKS INC.	)	MAINE POLLUTANT DISCHARGE
BUCKSPORT, HANCOCK COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
BULK FUEL STORAGE FACILITY	)	AND
#ME0001457	)	WASTE DISCHARGE LICENSE
#W002566-5S-E-R **APPROVAL**	)	**RENEWAL**

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S.A. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S.A. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, and applicable rules of the Department of Environmental Protection (Department) has considered the application of WEBBER TANKS INC. (Webber/permittee) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On April 2, 2015, the Department accepted as complete for processing, a renewal application from Webber for Waste Discharge License (WDL) #W002566-5S-C-R/ Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0001457 which was issued on October 15, 2010 for a five-year term. The October 15, 2010 permit authorized Webber to discharge treated stormwater runoff and/or hydrostatic test waters from three outfalls to Silver Lake Outlet, Class B at its confluence with the Penobscot River, Class SC, in Bucksport, Maine. See **Attachment A** of this permit for a facility site map.

PERMIT SUMMARY

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

1. Eliminating the monitoring and reporting requirements for Outfall #003 as flows from this drainage area have been rerouted to discharge out Outfall #001;

2. Modifying the requirements for maintaining a current Stormwater Pollution Prevention Plan (SWPPP); and

3. Revising the monthly average total suspended solids (TSS) limitation.

CONCLUSIONS

BASED on the findings summarized in the attached Fact Sheet dated September 2, 2015 and subject to the special conditions that follow, 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 M.R.S.A. § 464(4)(F), will be met, in that:

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

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

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

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

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

4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of Licenses*, 38 M.R.S.A. § 414-A(1)(D).

ACTION

Based on the findings and conclusions as stated above, the Department APPROVES the above noted application of WEBBER TANKS INC. to discharge treated stormwater runoff, treated vehicle wash waters and/or hydrostatic test waters from a bulk fuel storage and transfer facility to Silver Lake Outlet, Class B at its confluence with the Penobscot River, Class SC, in Bucksport, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

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

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

3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended August 25, 2013)]

DONE AND DATED AT AUGUSTA, MAINE, THIS 2ND DAY OF September, 2015.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for PATRICIA W. AHO, Commissioner

Filed
SEP 02 2015
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection: _____

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application March 30, 2015.

Date of application acceptance April 2, 2015.

This Order prepared by Yvette M. Meunier, Bureau of Water Quality

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **treated stormwater runoff from Outfall #001 (when hydrostatic test wastewater <u>is not</u> being discharged)** to Silver Lake Outlet which is a direct tributary to the Penobscot River at Bucksport. Such discharges are limited and must be monitored by the permittee as specified below[1]:

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	---	172 gpm[2] *[78]*	1/ Quarter *[01/90]*	Measure *[MS]*
Total Suspended Solids *[00530]*	25 mg/L[3] *[19]*	100 mg/L *[19]*	1/ Quarter *[01/90]*	Grab[4] *[GR]*
Oil & Grease *[00552]*	---	15 mg/L *[19]*	1/Quarter *[01/90]*	Grab[4] *[GR]*
Benzene[5] *[34030]*	---	Report mg/L *[19]*	1/Quarter *[01/90]*	Grab[4] *[GR]*
pH *[00400]* *(April – November)*	---	6.0 – 8.5[6] *[19]*	1/Month[6] *[01/90]*	Grab[4] *[GR]*

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

<u>FOOTNOTES:</u> See Pages 6 through 7 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. The permittee is authorized to discharge **hydrostatic test wastewater from Outfall #004 (when hydrostatic test wastewater is being discharged)** to Silver Lake Outlet which is a direct tributary to the Penobscot River at Bucksport. Such discharges are limited and must be monitored by the permittee as specified below:

OUTFALL #004 – Hydrostatic test wastewater[1]

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow (Total Gallons) *[82220]*	---	6.3 MGD *[57]*	1/Discharge *[01/DD]*	Measure *[MS]*
Total Suspended Solids *[00530]*	---	50 mg/L *[19]*	1/Discharge *[01/DD]*	Grab *[GR]*
Oil & Grease *[00552]*	---	15 mg/L *[19]*	1/Discharge[7] *[01/DD]*	Grab *[GR]*
Total Chlorine Residual *[50060]*	---	13 ug/L[8] *[28]*	1/Discharge *[01/DD]*	Grab *[GR]*
pH *[00400]* *(April – November)*	---	6.0 – 8.5[6] *[19]*	1/Discharge[6] *[01/90]*	Grab *[GR]*

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

FOOTNOTES: See Pages 6 through 7 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES

Sampling Locations: Discharges from Outfall #001 and #004 must be sampled independently, prior to co-mingling with any other waste stream(s).

Outfall #001 (stormwater) samples for all parameters must be collected after the oil/water separator during the first hour of discharge.

Outfall #004 (hydrostatic test wastewaters) samples for all parameters must be collected from the tank or piping prior to discharge directly to the receiving waters or before being commingled with stormwater runoff.

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

2. Flow - The flow through the oil/water separator must consist of stormwater runoff and vehicle wash water only except as specified for hydrostatic test waters discharged through Outfall #004. The direct or indirect discharge of liquids from petroleum product pipelines, transport tanks, vessels or storage tanks through the oil/water separator is not authorized by this permit except as specified for Outfalls #001 and #004. No chemical treatment such as dispersants, emulsifiers or surfactants may be added to the oil/water separator or any waste water discharge stream contributing flow to the separator.

   At no time must the flow through the oil/water separator exceed the design flow of the separator (175 gpm for Outfall #001). Flow measurement devices or calculated flow estimates via pump curves or tank volumes or other methods must be approved by the Department. Measurement of flow may be suspended upon approval from the Department in the event the permittee limits flow to the separator by installing a permanent constriction to prevent flows from exceeding the design capacity of the separator. The installation, replacement, or modification of any flow measurement or constriction device requires prior approval by the Department.

3. Total Suspended Solids (TSS) – Twelve-month rolling average. For the purposes of this permitting action, the twelve-month rolling average calculation is based on the test results for the most recent twelve-month period. Months when there is no discharge are

SPECIAL CONDITIONS

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

not to be included in the calculations. See page 7 of the Fact Sheet of this permit for an example calculation.

4. One grab sample for TSS, benzene and oil & grease analyses for each sampling event must be taken during the first hour of discharge.

5. Benzene - Monitoring for benzene is only required if gasoline is stored on site. The Department's reporting level (RL) of detection for benzene is 5 ug/L (0.005 mg/L). All analytical test results shall be reported to the Department including results which are detected below the RL of 0.005 mg/L. If the analytical test result is below the RL, the result must be reported as <X where X is the detection level achieved by the laboratory for that test.

6. pH - Limitations and monitoring requirements are only applicable between April – November (inclusive) of each year. The pH of the discharge shall be in the range of 6.0 – 8.5 standard units unless exceedences of this pH range are due to ambient pH levels of the precipitation. In such an event, the pH of the discharge may not be more than 0.5 standard units higher or lower the ambient pH. This provision is not applicable for the discharge of hydrostatic test waters.

7. Oil and grease - Monitoring is not required if the discharge of hydrostatic test water is from tanks and pipes that are certified weldable. The test water is not required to be pretreated through the oil/water separator, provided the test water is municipal water or from some other source which does not contain oil and grease.

8. Total residual chlorine (TRC) – Compliance with the daily maximum limitation is based on the U.S. Environmental Protection Agency's (USEPA) current RL of 50 ug/L (0.05 mg/L). All analytical test results must be reported to the Department, including results which are detected below the RL. Results reported at or below the RL will be considered to be in compliance with the permit. If the analytical test result is below the RL, the result must be reported as <X where X is the detection level achieved by the laboratory for that test. The Discharge Monitoring Reports will be coded with the RL of 50 ug/L such that detectable results reported at or below 50 ug/L but greater than the daily maximum water quality based limit established in this permit will not be recorded as violations of the permit.

   If the permittee or agent for the permittee utilizes a water supply that <u>has not</u> been disinfected with elemental chlorine or chlorine based compounds for hydrostatically testing tanks and or piping, sampling for TRC is not required. For the purposes of reporting on the DMR in this instance, enter "**NODI-9**", *Monitoring Is Conditional/ Not Required This Monitoring Period.*

B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not discharge effluent that contains 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 permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated for the classification of the receiving waters.

3. The permittee must not discharge wastewater that causes visible discoloration or turbidity in the receiving waters that causes those waters to be unsuitable for the designated uses and characteristics ascribed to their class.

4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification.

C. OIL/WATER SEPARATOR MAINTENANCE

The permittee must maintain an up-to-date operation and maintenance plan for the oil/water separator. The plan must include, but not be limited to, measures to ensure the separator performs within the designed performance standards of the system, is maintained on a routine basis to maximize the design capacity and efficiency of the system, and that adequate staffing and training of personnel is provided to ensure compliance with discharge limitations.

The operation and maintenance plan must remain on site at all times and be made available to Department and USEPA personnel upon request.

For the purposes of minimizing suspended solids in the stormwater directed to the oil/water separator, the permittee must implement best management practices (BMPs) for erosion and sedimentation control. See Department publication entitled, Maine Erosion And Sedimentation Control BMPs for guidance online at http://www.maine.gov/dep/land/erosion/escbmps (visited December 5, 2013). The permittee must periodically inspect, maintain and repair erosion and sedimentation control structures as necessary.

D. HYDROSTATIC TEST WASTEWATER

Tanks and pipes being hydrostatically tested must be clean of product and all construction debris, including sandblasting grit, prior to testing and discharge through Outfall #004. The discharge must be dechlorinated if test results indicate that discharged waters will violate permit limits. **The permittee must notify the Department of an intended discharge of hydrostatic test wastewater at least three business days prior to the discharge.**

SPECIAL CONDITIONS

E. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on April 2, 2015; 2) the terms and conditions of this permit; and 3) only from Outfall #001 and Outfall #004. Discharges of wastewater from any other point source(s) are not authorized under this permit, and must be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

F. NOTIFICATION REQUIREMENT

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

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

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

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

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

G. STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS

1. Stormwater Pollution Prevention Plan (SWPPP)

   a. With respect to the facility contributing stormwater flow subject to this permit, the permittee must develop, implement, maintain and annually update a Stormwater Pollution Prevention Plan (SWPPP) *[ICIS code 09299]* for the facility that is consistent with the SWPPP requirements established in Part V of the Department's *Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity*, dated April 26, 2011, and Sector specific requirements included in Sector P of the Multi-Sector General Permit (MSGP). See **Attachment A** of this permit. The permittee must maintain a copy of the SWPPP and associated records on-site for Department or USEPA staff inspection.

SPECIAL CONDITIONS

G. STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS (cont'd)

b. **Within 30 days of any change** in design, construction, operation, maintenance, or any chemical spill at the facility which has or may have a significant effect on the amount of pollutants present in stormwater, the permittee must amend the SWPPP and note all changes.

2. Monitoring Requirements: MSGP visual monitoring requirements are waived due to the more in-depth quarterly analytical monitoring required under this license for TSS and Oil & Grease. If at any time analytical monitoring ceases, visual monitoring will be required.

3. Authorized stormwater discharge points.

Outfall No.	Description	Receiving Water and Location
#001	Discharge from Tank Farm is conveyed to the oil/water separator to the Silver Lake Outletwhich is a direct tributary to the Penobscot River	Silver Lake Outlet/ Class B and Penobscot River/Class SC, in Bucksport
#004	Hydrostatic test wastewater is discharged directly to Silver Lake Outlet which is a direct tributary to the Penobscot River or discharged via the oil/water separator with stormwater runoff to the Penobscot River	Silver Lake Outlet/Class B and Penobscot River/Class SC, in Bucksport

H. MONITORING AND REPORTING

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

Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Water Quality
106 Hogan Road
Bangor, ME 04401

SPECIAL CONDITIONS

H. MONITORING AND REPORTING (cont'd)

Alternatively, if the permittee submits an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the **15th day of the month** following the completed reporting period. Hard copy documentation submitted in support of the eDMR must be postmarked on or before the **thirteenth (13th) day of the month or hand-delivered** to the

Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. Electronic documentation in support of the eDMR must be submitted not later than close of business on the 15th day of the month following the completed reporting period.

I. REOPENING OF PERMIT FOR MODIFICATIONS

In accordance with 38 M.R.S.A. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

J. 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 will remain in full force and effect, and will be construed and enforced in all respects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

ATTACHMENT A

7. Additional information required by the Department as part of the NOI, to determine whether or not to authorize the discharge under this General Permit.

E. Where to Submit. A completed and signed NOI, in accordance with Part VIII(E), must be submitted with the appropriate fee to:

Maine Department of Environmental Protection
Municipal and Industrial Stormwater Coordinator
17 State House Station
Augusta ME 04333-0017

F. Deficient NOI. If any portion of the NOI does not meet one or more of the minimum requirements of this part, the applicant will be notified of the deficiency within the 30-day review period. It is the responsibility of the applicant to make all required changes and resubmit the NOI. The review period will begin when the revised NOI is received by the Department.

Part V. STORMWATER POLLUTION PREVENTION PLAN REQUIREMENTS

A. Stormwater Pollution Prevention Plan (SWPPP) Preparation. Each facility seeking coverage under this General Permit must prepare a SWPPP as described in Part III(A) prior to submitting a NOI for permit coverage. The SWPPP must be prepared in accordance with good engineering practices and identify potential pollutant sources which may reasonably be expected to affect the quality of stormwater discharges associated with industrial activity from the facility. The SWPPP must describe and ensure the implementation and maintenance of Best Management Practices (BMPs) and Control Measures as identified in this Part. Implementation of the SWPPP must reduce or eliminate polluted stormwater discharges associated with industrial activity, and assure compliance with this General Permit.

B. Control Measures. The permittee shall select, design, install and implement control measures (including BMPs) to address potential pollutant sources and any discharge(s) associated with industrial activity. Control measures must be evaluated in conjunction with monitoring to meet the terms and conditions of this General Permit. The selection of these control measures must be in accordance with good engineering practices, and the requirements of each Sector. (See Appendix A–AD.) The SWPPP must fully describe these control measures, including their implementation and maintenance schedules.

C. Non-Numeric Technology Based Effluent Limits. When developing control measures the following must be performed as applicable using the best practicable technology, best available technology, best control technology (BPT/BAT/BCT). The below listed Best Management Practices are considered limits of this General Permit which must be met for compliance. Additional Non-Numeric Technology Based Effluent Limits may also be

required as noted in the Sector specific requirements in Appendices A–AD. The methods utilized to meet these limits must be documented in the SWPPP:

1. The permittee shall minimize exposure of the manufacturing process, and material or product storage areas to stormwater (where practicable) by locating industrial activities and materials inside or by protecting them with storm resistant coverings. By eliminating the exposure of the manufacturing process, and material or product storage areas as required by Appendix AE, the facility may qualify for No Exposure Certification. The Department also encourages methods and designs which minimize or mitigate impervious area and reduce runoff.

2. The permittee shall perform good housekeeping procedures, and keep all exposed areas that are potential sources of pollutants clean and orderly. Implement at regular intervals, measures such as sweeping impervious areas, proper labeling of containers, and the storage of liquids within proper secondary containment.

3. The permittee shall regularly inspect, test, maintain and repair all industrial equipment, systems and BMPs to prevent situations that may result in leaks, spills or other releases of pollutants. If the permittee or Department inspector finds that a structural control measure(s) must be repaired or modified to ensure proper function, the permittee shall make the required repairs or modifications as quickly as possible, but no later than twelve (12) weeks from discovery unless otherwise authorized by the Department. Temporary control measures must be in place during this time to reduce or prevent discharges of pollutants. If a non-structural control measure is found to be deficient, the correction of the deficiency for that control measure must be initiated within five (5) days and completed no later than thirty (30) days from discovery. (See Part V(E).)

D. SWPPP Contents. The SWPPP must contain the following components:

1. Pollution Prevention Team. The SWPPP must identify the individual(s) (by name or title) whom comprise the facility's stormwater Pollution Prevention Team. The Pollution Prevention Team is responsible for assisting the facility/plant manager in developing, implementing, maintaining and revising the facility's SWPPP. Responsibilities of each team member must be listed.

2. Site Description. The SWPPP must include a narrative site description of the activities conducted at the site.

3. Site Map. The site map must include:

   a. Approximate drainage boundaries including directions of stormwater flow and outfall locations (use arrows to show flow path);

   b. Boundary of impervious surfaces;

c. Locations of all existing structural BMPs to reduce pollutants in stormwater runoff;

d. Locations of all surface waters including wetlands and streams;

e. Locations of potential pollutant sources identified under Part V(D)(4) below;

f. Locations where major spills or leaks identified under Part V(D)(5) have occurred within the past three years. For the purpose of the site map, mark only areas of frequent spills (greater than three occurrences per year) or large spills (greater than 10 gallons). ALL locations of fuel spills must be documented within the SWPPP;

g. Locations of the following activities exposed to stormwater: fueling stations, vehicle and equipment maintenance, storage and cleaning areas; loading or unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; material processing, transfer or storage areas; access roads, rail cars or tracks;

h. Locations of stormwater conveyance systems including swales, ditches, culverts, subsurface stormwater infrastructure, outfalls, including boat ramps, and an approximate outline of the area draining to each outfall;

i. Location and description of non-stormwater discharges (e.g., wastewater licensed outfall);

j. Location and source of run-on from adjacent property that contains either significant quantities of pollutants or volume to the facility; and

k. The name of the nearest receiving water(s), including intermittent streams and wetland(s) that may receive discharges from the facility. An unnamed stream or wetland must be designated as such. The status of the receiving water in terms of water quality classification must also be noted. Contact a regional Stormwater Inspector for assistance if you are not aware of the classification status of the water body to which the facility discharges.

4. Summary of Potential Pollutant Sources. The permittee shall identify each separate area where industrial materials or activities are exposed, or have the potential to be exposed to stormwater. Industrial materials or activities include, but are not limited to, material handling equipment or activities; industrial machinery; cleaning, fueling and maintenance of vehicles; equipment storage; and, storage of raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading or unloading, transportation, or movement of any raw material, intermediate product, final product or

waste product. If applicable, include an evaluation of how the quality and quantity of the stormwater flowing onto the facility from adjacent properties impacts the stormwater discharges from the permitted facility. For each separate area identified, the description must include:

a. Industrial activities area. A list of the activities (e.g., material storage, loading, access areas, equipment fueling and cleaning, cutting, grinding, or processing). Each drainage area must be described and include a prediction of the direction of flow and an estimate of the types of pollutants which may be present in the stormwater discharge. The flow of stormwater across the site must be clearly depicted on the site map;

b. Pollutants. A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, iron, biochemical oxygen demand, pH, sediment, etc.) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed of in a manner that may allow exposure to stormwater three (3) years prior to review of or development of the SWPPP; and

c. Method of on-site storage or disposal. A storage practice or disposal method must be detailed for all raw materials, intermediate materials, final products and waste materials. Waste materials must be handled in accordance with Maine's Solid Waste Management Rules.

5. Potential for Spills and Leaks. The permittee shall clearly identify areas where potential spills and leaks, may occur, along with the accompanying drainage points, and provide a list of spills and leaks that occurred during the three (3) year period prior to submitting a NOI or latest revision of the SWPPP for any area exposed to precipitation or area which drains to a stormwater conveyance.

   Spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Clean Water Act (CWA) §311 (See 40 CFR 110 and 40 CFR 117.21), section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or 38 M.R.S.A. §§ 543, 550 and 1318-B. Unlicensed discharges of oil and hazardous matter are prohibited (See 38 M.R.S.A. §§ 543 & 1317-A). These discharges must be removed to the Commissioner's satisfaction (See 38 M.R.S.A. §§ 1318-B, 548, 568). Hazardous matter discharges must be reported (See 38 M.R.S.A. §§ 1318-B). Oil and hazardous matter have "safe harbor" incentives for reporting (See 38 M.R.S.A. §§ 550 & 1318).

6. Wastewater/Process Water Containment. The location of all wastewater or process water containment tanks must be clearly noted in the SWPPP

and on the site map. Any stationary above ground tank, container, or container storage area used for the storage of wastewater or process water that has the potential to discharge to surface waters or a stormwater conveyance during a malfunction must be held in a secondary containment device capable of containing 100% of the contents of the tank, plus precipitation. The containment devices must meet all Federal and State rules for primary and secondary containment. Secondary containment may be waived if the tank is equipped with a level sensor and alarm to signal an overflow or leak and the facility has a contingency plan in place to remove excess liquid to a second containment structure or off site treatment facility to prevent exposure to stormwater. The containment structures must be visually inspected for signs of deterioration at least once per year. The contingency plan and tank inspection procedure must be documented in the SWPPP. (See CMR 06-096 520 for definitions.)

7. Sampling Data. All stormwater sampling data, including visual monitoring results collected during the term of this General Permit must be maintained in the SWPPP.

8. Stormwater Controls. Describe the type and location of existing non-structural and structural BMPs selected for each area where industrial materials or activities are exposed to stormwater. All the areas identified in Part V(D)(4) and (5) must have a BMP(s) identified for the area's discharges. For areas where BMPs are not currently in place, describe appropriate BMPs to control pollutants in stormwater discharges. The SWPPP must include an implementation schedule for all proposed BMPs. Refer to individual Sector(s) for additional requirements or guidelines for new BMP installations. Selection of all BMPs must take into account:

   - The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;
   - Opportunities to combine the dual purposes of water quality protection and local flood control benefits (including physical impacts of high flows on streams such as bank erosion, impairment of aquatic habitat, etc.); and
   - Opportunities to offset stormwater and temperature impacts from impervious areas on dry weather flows and low flow situations to streams.

9. BMP Types Considered. (See Part V(C) Non-Numeric Technology Based Effluent Limits.) The permittee shall describe how each BMP is currently implemented, or will be implemented. The following types of structural, and non-structural BMPs must be considered for implementation at the facility. This requirement may have been fulfilled with the area-specific BMPs identified under Part V(D)(8), in which case, the previous description is sufficient. However, many of the following BMPs may be more generalized or non site-specific and therefore not previously

considered. If the permittee, agent or Department stormwater inspector determines that any of these BMPs are not appropriate or are inadequate to reduce or eliminate pollutants, an explanation of this determination along with corrective actions must be documented in the SWPPP. The BMP examples listed below are not intended to be a comprehensive list. The permittee is encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for the facility. If BMPs are planned at the facility which are not listed previously in the SWPPP (e.g., replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), include an implementation timeline within this section of the SWPPP.

a. Non-Structural BMPs.

Good Housekeeping: The permittee shall keep all exposed areas free of materials which could contribute pollutants to stormwater discharges by performing good housekeeping measures such as sweeping, and proper material containment. Measures must include compliance with the Non-Numeric Technology Based Effluent limits noted in Part V(C) and the individual Sector requirements in Appendices A-AD.

Minimizing Exposure: Where practicable industrial materials and activities should be protected by a storm resistant shelter to prevent exposure to stormwater, or located in an area that does not discharge to a surface water or a MS4.

Preventive Maintenance: The permittee shall implement a preventive maintenance program which includes the timely inspection and maintenance of stormwater management devices, (e.g., cleaning oil/water separators, catch basins) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters.

Spill Prevention and Response Procedures: The permittee shall describe spill prevention and clean up procedures for spills or leaks. These procedures, and the necessary spill response equipment, must be made available to employees who may cause or encounter a spill or leak. Where appropriate, the permittee shall explain existing or planned material handling procedures, storage requirements, secondary containment, and equipment (e.g., diversion valves) in the SWPPP which are intended to minimize spills or leaks at the facility. Unlicensed discharges of oil and hazardous matter are prohibited (See 38 M.R.S.A. §§ 543 & 1317-A). These discharges must be removed to the Commissioner's satisfaction (See 38 M.R.S.A. §§ 1318-B, 548, 568). Hazardous matter discharges must be reported (See 38 M.R.S.A. §§ 1318-B).

Oil and hazardous matter have "safe harbor" incentives for reporting (See 38 M.R.S.A. §§ 550 & 1318).

- Procedures to properly label all storage containers.
- Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions and procedures for material storage and handling.
- Procedures for quick response to stop leaks, spills and other releases. Employees who may cause, detect or respond to a spill situation shall be properly trained. The training must be documented in the SWPPP.
- Procedures to notify trained facility personnel, emergency response and regulatory agencies in the event of a spill or release. Documentation of spills and releases must be included in the facility SWPPP.

Employee Training: The permittee shall describe the annual stormwater employee training program for the facility. The description must include the topics to be covered, (such as spill response, good housekeeping and material management practices). The permittee shall provide employee training for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, spill responders and maintenance staff). The employee training must address the components and goals of the SWPPP.

b. Structural BMPs.

Sediment and Erosion Control: The permittee shall identify areas at the facility which, due to topography, land disturbance or other factors, have a potential for soil erosion. The permittee shall describe and implement structural, vegetative, or stabilization BMPs to manage runoff and limit erosion and sediment transport and the resulting discharge of pollutants.

Stormwater Velocity Control: The permittee shall install stormwater velocity dissipation controls where appropriate.

NOTE: This Permit requires compliance with Maine's Erosion and Sedimentation Control Law. Installation of Structural BMPs may require a separate permit pursuant to the Natural Resources Protection Act, Maine Stormwater Management or the Site Location of Development Act.

Stormwater structural devices: The permittee shall describe the stormwater management practices (permanent structural BMPs other than those which control the generation or source(s) of pollutants) that currently exist or are planned for the facility.

These types of BMPs typically are used to divert, filter, reuse, or otherwise reduce pollutants in stormwater discharges from the site.

10. Other Controls. No solid materials, including floatable debris, may be discharged to waters of the State, except as authorized by a permit issued under section 404 of the Clean Water Act. Off-site vehicle tracking, or blowing, of raw, final, waste materials or sediments, and the generation of dust, must be minimized and documented in the SWPPP.

E. Maintenance. All BMPs identified in the SWPPP must be maintained in effective operating condition. If site inspections identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary, to maintain the continued effectiveness of stormwater controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and implemented as soon as practicable, but not later than twelve (12) weeks from the date of discovery unless authorized by the Department. The maintenance schedule and reason for delay must be documented in the SWPPP. The Department will take into account the size and cost of the project, the need to obtain supplies, construction timeframes, weather, the amount of pollution discharged and the condition of receiving waters in determining if a delay is acceptable. In the case of non-structural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., available spill response supplies, training, etc.). Maintenance and BMP follow up actions must comply with Part V(I)(3) of this General Permit.

F. Allowable Non-Stormwater Discharges. Allowable non-stormwater discharges are listed in Parts I(D) and (E). Except for flows from fire fighting activities, the permittee shall identify all sources of allowable non-stormwater discharge(s) in the SWPPP and include:

- Identification of each allowable non-stormwater source;
- The location where it is likely to be discharged; and
- Descriptions of appropriate BMPs for each source.

If mist blown from cooling towers is listed as an allowable non-stormwater discharge, the permittee shall specifically evaluate the potential for the discharge(s) to be contaminated by chemicals used in the cooling tower and determine that the levels of such chemicals would not cause or contribute to a violation of an applicable water quality standard.

G. Applicable State or Local Plans. The SWPPP must be consistent and updated with applicable state or local stormwater, waste disposal, sanitary sewer or septic system regulations to the extent these apply to the facility and are more stringent than the requirements of this General Permit.

H. Monitoring Frequency and Procedure Documentation. The SWPPP must document the procedures for conducting the three types of analytical

monitoring (Benchmark, Numeric, and Impaired Waters) and Visual Monitoring where applicable. These procedures are outlined in Part VI of this General Permit. SWPPP documentation must include the following:

1. Location of sample collection (outfall designation).
2. Sampling parameters and sampling frequency for each parameter including the benchmark or limit associated with that parameter.
3. Monitoring schedule including monitoring exceptions, adverse weather conditions and waivers.

I. Site Compliance Evaluations and Follow-up Corrective Actions. This General Permit requires the completion of quarterly site inspections or Site Compliance Evaluations. The SWPPP must include procedures for conducting and documenting the evaluations as required by this part.

1. Frequency of Inspections. The permittee shall conduct Site Compliance Evaluations a minimum of four (4) times a year, one of which must be conducted within 24 hours of a qualifying storm event. These inspections must be evenly spaced with a minimum of sixty (60) days between inspections. Inspections must be done by qualified personnel as defined by the permittee. Qualified personnel may be either a facility employee or agent provided the inspector can accurately assess facility conditions that may impact stormwater discharges and BMP effectiveness. These inspections may be conducted in conjunction with Part (VI)(B), Quarterly Visual Monitoring, or be conducted separately. If the permittee decides to conduct more frequent inspections, the SWPPP must specify the frequency of inspections.

2. Scope of the Site Compliance Evaluation. The evaluation/inspection must include all areas where industrial materials or activities are exposed to stormwater, as identified in Part V(D)(4), and all associated stormwater conveyances and areas where spills and leaks have occurred within the past three (3) years. Inspectors shall evaluate and document:

   a. Industrial materials, residue, or trash on the ground that could contaminate stormwater;
   b. Leaks or spills from industrial equipment, drums, barrels, tanks or similar containers;
   c. Offsite tracking of industrial materials or sediment where vehicles enter or exit the site;
   d. Tracking, blowing or whirling of raw, final, or waste materials and the evidence of, or the potential for, pollutants to contact stormwater;
   e. Stormwater BMPs identified in the SWPPP must be inspected and evaluated to ensure that they are operating correctly. Inspect

stormwater conveyances and outfalls for erosion, integrity and potential pollutants. Where discharge locations or outfalls are inaccessible, nearby downstream locations must be inspected if possible; and

f. The once per year Non-Stormwater Discharge Certification may be incorporated into one of the four Site Compliance Evaluations.

3. Site Compliance Evaluation Follow-up Actions. Based on the results of the Site Compliance Evaluation, the permittee shall:

a. Complete a Site Compliance Evaluation Report. This report summarizes the scope of the inspection as noted in Part V(I)(2) above. The permittee shall prepare a Site Compliance Evaluation Report upon completing the inspection. This report must include the name(s) or position(s) of personnel performing the inspection, the date(s) of the evaluation, and major observations relating to the implementation of the SWPPP. The inspection report(s) must identify any incidents of non-compliance and proposed or implemented follow-up action(s). Where an inspection report does not identify any incidents of non-compliance, the report must contain a certification that the facility is in compliance with the SWPPP and this General Permit. The Department has prepared a guidance checklist that may be used or modified for reporting.

b. Develop a Corrective Action Report (CAR). A Corrective Action Report is a description of actions, BMPs, site modifications or behaviors necessary to meet the terms and conditions of this General Permit. Two types of CARs may be generated.

c. Structural BMP Corrective Action Report. This CAR includes modification(s) or addition(s) and implementation of a structural BMP(s). If a noted deficiency is related to a structural BMP excluding routine maintenance, the permittee shall notify the regional stormwater inspector within fourteen (14) business days by phone, email or USPS. Notwithstanding the timeframes described above, the Department reserves the right to take enforcement actions for unpermitted discharges.

Note: If temporary stabilization measures are needed in emergency situations, a permittee may begin installation provided the addition of the BMP or stabilization measure is not in violation of State or Federal laws. The Department should be contacted with in 24 hours in these situations.

d. Non-Structural BMP Corrective Action Report. This CAR notes the addition or modification of a non-structural BMP(s) which must be developed, implemented and kept with the SWPPP.

e. Content of a Corrective Action Report. All CARs must contain at a minimum the initial inspection date, a summary of the deficiency and corrective action(s) planned or implemented including temporary measures. The date the corrective action(s) was initiated, completed or expected to be completed.

Inspection reports and follow-up CARs must be signed by the permittee in accordance with Part VIII(G).

f. SWPPP Modification and Timeline for Completion of Corrective Actions. Modify the SWPPP as necessary (e.g., to show additional controls on the site map) as required by Part V(D)(3) and revise the description of controls as required by Part V(D)(8) to include additional or modified BMPs to correct problems identified in the Site Compliance Evaluation and Corrective Action Report. The permittee shall complete revisions to the SWPPP within thirty (30) calendar days following the inspection, and initiate changes to non-structural BMPs within five (5) business days. If existing structural BMPs require modification or if additional structural BMPs are necessary, implementation must be completed before the next anticipated storm event to the extent practicable, but not more than twelve (12) weeks after discovery of the deficiency unless otherwise authorized by the Department. Temporary BMPs must be utilized during the design and construction phase of new structural BMPs. These temporary BMPs must be implemented as soon as practicable after the Site Compliance Evaluation is complete. The permittee shall retain a record of actions taken in accordance with Part V(I) of this General Permit as part of the SWPPP for at least three (3) years from the date that permit coverage expires or is terminated.

J. SWPPP Documentation Requirements. The permittee shall keep the following inspection, monitoring and certification records on site with the facility's SWPPP. The complete and up-to-date records which demonstrate full compliance with the conditions of this General Permit include:

1. A copy of the NOI submitted to the Department along with any correspondence exchanged between the permittee and the Department specific to coverage of this General Permit.

2. A copy of the Department's acknowledgement letter assigning the facility Permit ID number, and discharge authorization.

3. A copy of the General Permit, (electronic is acceptable), which can be made available to SWPPP team members.

4. Dates and descriptions of spills, leaks, or other releases that resulted in discharges of pollutants to waters of the State through stormwater or

otherwise; the circumstances leading to the release and actions taken in response to the release; and, the measures taken to prevent the recurrence of such releases.

5. Records of annual employee training, including topics covered, training date(s), and printed names and signatures of participating employees.

6. Documentation of maintenance and repairs of stormwater control measures, including dates of regular maintenance, discovery dates of areas in need of repair or replacement; repair date when control measure(s) returned to full function; and, the justification for any extended maintenance or repair schedules.

7. Documentation of inspections and monitoring data.

8. Description of any deviations from monitoring schedules.

9. Corrective Action Reports and summary of completed actions taken at the site, including event(s) and date(s) when problems were discovered and modifications occurred.

10. Documentation of monitoring exceedances and the facility's response including corrective actions; additional monitoring; documentation indicating the benchmark exceedance was due to natural background pollutant levels; or a finding of no further pollutant reductions were technologically, or economically, practicable, and achievable in light of best industry practice.

11. Documentation to support any determination that pollutants of concern are not expected to be present above natural background levels if the permittee discharges directly to impaired waters, and that such pollutants were not detected in the discharge or were solely attributable to natural background sources.

12. Documentation of the annual non-stormwater discharge certification.

K. Requirement to Maintain Updated SWPPP. The permittee shall amend the SWPPP within thirty (30) days of completion of any of the following:

1. A change in design, construction, operation, or maintenance at the facility that has a significant effect on the discharge or potential for discharge of pollutants from the facility including the addition or reduction of industrial activity;

2. Monitoring, inspections, or investigations by the permittee or by local, State, or Federal officials which determine the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under Part V(D)(4), or is otherwise not achieving the general objectives of controlling pollutants in discharge(s) from the facility;

3. A release of hazardous substances and oil (see 38 M.R.S.A. § 543, 550 and 1318-B); and

4. A discharge authorized under this General Permit that is determined by Department notification to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard. The SWPPP must document actions necessary to ensure future discharge(s) do not cause or contribute to the violation of a water quality standard.

L. Department Review. Department staff may notify the permittee at any time that a SWPPP does not meet one or more of the minimum requirements of this General Permit.

M. Signature, SWPPP Review and SWPPP Availability. The SWPPP must be signed in accordance with Part VIII(E), and a working copy retained at the facility covered by this General Permit. (See Part III(E) for records retention requirements.) The permittee shall only submit a copy of the SWPPP to the Department upon written notification. Upon the Department's request, the SWPPP must be submitted electronically via e-mail or saved to a compact disc and mailed or hand delivered to the Department.

N. Additional Requirements for SARA Title III Facilities. Potential pollutant sources for which the permittee has reporting requirements under EPCRA 313 must be identified in the summary of potential pollutant sources as per Part V(D)(4). Note this additional requirement only applies to the permittee if the permittee is subject to reporting requirements under EPCRA 313.

O. Salt Storage Pile Requirements. Salt storage pile(s) used for deicing or commercial or industrial purposes located at the facility, must be enclosed or covered to prevent exposure to precipitation, with exception of adding or removing materials from the pile, and for sand/salt storage piles at municipal public works facilities. See 06-096 CMR 574, and 38 M.R.S.A. §413(2-D) for additional requirements.

Part VI. MONITORING REQUIREMENTS

A. Monitoring Requirements and Limitations. The monitoring requirements and numeric limitations applicable to a facility depend on the types of industrial activities conducted. The permittee shall review Parts III (Permit Conditions), VI (Monitoring Requirements) and VII (Sector Specific Requirements) of this General Permit to determine which monitoring requirements and numeric limitations apply to the industrial activity or activities at the facility.

1. Sector-specific monitoring requirements. Sector-specific monitoring requirements and limitations are applied outfall by outfall at facilities with multiple Sector-specific industrial activities. Where stormwater from multiple Sector-specific industrial mixes, the monitoring requirements and limitations are additional.

Appendix P

Sector P - Land Transportation and Warehousing.

A. Covered Stormwater Discharges. The requirements for Sector P apply to stormwater discharges associated with industrial activity from Land Transportation and Warehousing facilities as identified by the SIC Codes specified below.

SECTOR P: LAND TRANSPORTATION AND WAREHOUSING	
4011, 4013	Railroad Transportation
4111-4173	Local and Highway Passenger Transportation
4212-4231	Motor Freight Transportation and Warehousing
4311	United States Parcel Service
5171	Petroleum Bulk Stations and Terminals

B. Limitations on Coverage. (See also Part I(E).) This General Permit does not authorize the discharges associated with equipment or vehicle wash water. A copy of the MEPDES permit issued for vehicle or equipment wash water (or a copy of the pending application) must be attached or referenced in the SWPPP. If an industrial user permit is issued under a pretreatment program, attach a copy to the SWPPP.

If wash water is handled in another manner (e.g., hauled offsite), describe the disposal method and attach all pertinent waste manifests and documentation and any other information (e.g., frequency, volume, destination, etc.) in the plan.

C. Additional SWPPP Requirements and Non-Numeric Technology Based Effluent Limits.

1. Site Map. (See also Part V(D)(3).) Identify the locations of any of the following activities or sources: fueling stations; vehicle and equipment maintenance or cleaning areas; vehicle, equipment, and material storage areas; loading and unloading areas; areas where treatment, storage or disposal of wastes occur; and liquid storage tanks.

2. Potential Pollutant Sources and Exposed Materials. (See also Part V(D)(4).) Describe and assess the potential for the following to contribute pollutants to stormwater: onsite fluid and waste fluid storage or disposal; parking areas for vehicles awaiting maintenance; activities associated with mechanical repairs; grinding, painting or fabrication; used battery storage and fueling areas.

3. Inspections. (See also Part V(I).) The permittee shall inspect storage areas for vehicles and equipment awaiting maintenance; fueling areas; indoor and outdoor vehicle or equipment maintenance areas; material storage areas; vehicle or equipment cleaning areas; vents and stacks associated grinding, sanding or painting; and loading and unloading areas.

4. Good Housekeeping Measures. (See also Part V(D)(9)(a).) Perform good housekeeping which includes the following areas and activities:

Vehicle and Equipment Storage Areas. Leaky or leak-prone vehicles or equipment awaiting maintenance must be confined to designated areas. Use drip pans or absorbent pads under leaking vehicles and equipment. Store vehicles and equipment scheduled for maintenance inside or under cover if possible, or on an impervious surface such as concrete or asphalt if stored outside.

Fueling Areas. Prevent or minimize stormwater contamination from fueling areas by immediately cleaning up drips and spills with absorbent pads or dry absorbent materials. The facility must have a spill kit on site. Consider covering the fueling area with an overhang or extended roof area.

Vehicle and Equipment Cleaning Areas. The discharge of vehicle or equipment wash water is not authorized under this General Permit. Consider performing all washing or cleaning operations indoors in a dedicated wash bay where the wash water is either pumped to a holding tank or sent to the sanitary sewer. The latter may require a pre-treatment agreement with the POTW. Outdoor washing is allowed if there is no discharge to a stormwater conveyance or a surface water, and there is no engine washing or the use of acids bases or degreasers.

Vehicle and Equipment Maintenance Areas. Implement measures to prevent or minimize contamination of stormwater with fluids, grease, or particulate matter from grinding or sanding. Consider performing maintenance activities indoors and use drip pans or other absorbent materials for drips and spills. Maintain an organized inventory of materials used in the shop; drain all parts of fluid prior to disposal. Maintain a dry indoor maintenance shop and prohibit wet clean up practices.

Locomotive Sanding (Loading Sand for Traction) Areas. Implement measures to prevent the discharge of traction sand, measures may include: covering sanding areas; minimizing stormwater run on and runoff. The permittee shall implement appropriate sediment removal practices to minimize the offsite transport of sanding material.

Material Storage Areas. Maintain all liquid material storage vessels free of debris or residue for products and waste products to prevent contamination of stormwater. Plainly label all waste product containers (e.g., "Used Oil," "Spent Solvents," etc.). Consider storing the materials indoors with proper secondary containment. Barrels stored outside must residue free and stored on pallets while awaiting transport for indoor use or for proper disposal. Outdoor storage of barrels must be inspected weekly for spills or leaks.

5. Employee Training. (See also Part V(D)(9)(a).) Provide annual training to address, as applicable: spill response and safety procedures, used oil and spent solvent storage and management; fueling procedures; general good housekeeping practices for painting, grinding, sanding and metal or fiberglass fabrication, and welding; and, used battery storage, containment and management.

D. Visual Monitoring Requirements. (See also Part VI.) Visual monitoring must be conducted quarterly during a qualifying storm event. Collect a grab sample for visual monitoring analysis from each outfall that has an associated industrial activity within the outfall's drainage area. The outfall(s) must be sampled quarterly unless the facility has representative outfalls.

Visual monitoring requirements are waived if the facility is in compliance with and can demonstrate participation in the implementation of an established Department Approved Watershed Management Plan; or if the facility is conducting Benchmark, Impaired Waters sampling and analysis, or Numeric Monitoring for Total Suspended Solids (TSS). Visual monitoring is only waived for the outfall(s) associated with Numeric Monitoring. The permittee shall conduct quarterly visual monitoring at outfalls that do not require Numeric Monitoring.

Visual monitoring must be resumed if Benchmark Monitoring, Numeric Monitoring or Impaired Waters sampling is ceased.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **SEPTEMBER 2, 2015**

PERMIT NUMBER: **#ME0001457**

WASTE DISCHARGE LICENSE: **#W002566-5S-E-R**

NAME AND ADDRESS OF APPLICANT:
WEBBER TANKS INC.
PO BOX DRAWER CC
BUCKSPORT, ME 04416

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):
WEBBER TANKS INC.
93 RIVER ROAD
BUCKSPORT, ME 04416

COUNTY: **HANCOCK**

RECEIVING WATER CLASSIFICATION: **SILVER LAKE OUTLET, CLASS B AND PENOBSCOT RIVER, CLASS SC**

COGNIZANT OFFICIAL CONTACT INFORMATION:
MICHAEL MCALLIAN
(207) 469-3165
EMAIL: mmcallian@webbertanks.com

1. APPLICATION SUMMARY

Application: On April 2 2015, the Department of Environmental Protection (Department) accepted as complete for processing, a renewal application from Webber Tanks, Inc. (Webber/permittee) for Waste Discharge License (WDL) #W002566-5S-C-R/ Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0001457 which was issued on October 15, 2010 for a five-year term. The October 15, 2010 permit authorized Webber to discharge treated stormwater runoff and/or hydrostatic test waters from three outfalls to Silver Lake Outlet, Class B at its confluence with the Penobscot River, Class SC, in Bucksport, 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 it is:

1. Eliminating the monitoring and reporting requirements for Outfall #003 as flows from this drainage area have been rerouted to discharge out Outfall #001;

2. Modifying the requirements for maintaining a current Stormwater Pollution Prevention Plan (SWPPP); and

3. Revising the monthly average total suspended solids (TSS) limitation.

b. History: This section provides a summary of recent/significant licensing and permitting actions and other significant regulatory actions completed for the Webber facility.

September 6, 1994 – The Department issued WDL #W002566-5S-A-R for a five-year term.

March 8, 2000 – The Department issued WDL #W002566-5S-B-R renewal for a five-year term.

January 12, 2001 – The State of Maine received authorization from the USEPA to administer the NPDES permitting program in Maine. From this date forward, the program has been referred to as the MEPDES permit program, and MEPDES permit #ME0001457 has been utilized for this facility. On March 26, 2011, the USEPA authorized the Department to administer the MEPDES program in Indian territories of the Penobscot Nation and Passamaquoddy Tribe.

April 25, 2005 – The Department issued combination MEPDES permit #ME0001457/WDL #W002566-5S-C-R, for a five year term.

October 15, 2010 – The Department issued combination MEPDES permit #ME0001457/WDL #W002566-5S-D-R, for a five year term.

March 30, 2015 – Webber submitted a timely and complete application to renew the MEPDES permit for Webber's Bucksport facility, in Bucksport, Maine. The application was accepted for processing on April 2, 2015, and was assigned WDL #W002566-5S-E-R / MEPDES #ME0001457.

c. Source Description and Wastewater Treatment: The permittee's facility is engaged in the transfer (ship to shore), storage and distribution of refined petroleum products such as gasoline and distillate oils. The site has one physical outfall point to Silver Lake Outlet that is a direct tributary to the Penobscot River, although this permitting action assigns two outfall identifiers (#Outfall #001 and Outfall #004) depending on the type of wastewater being discharged.

2. PERMIT SUMMARY(cont'd)

Outfall 001 is associated with stormwater collected in the Tank Farm and stormwater collected at Loading Racks A, B, & C. Vehicle washing also occurs at these racks. Stormwater and wash water discharge directly into the tank farm. The Tank Farm is divided into two separate containment areas; Containment Area A and Containment Area B. All stormwater collected in Containment Area B is drained by gravity into Containment Area A. Hydrostatic test water from bulk storage tanks in the tank farm is physically discharged via Outfall 001. For the purposes of this permitting action, the Department has established an administrative outfall designated as Outfall #004 as a mechanism for the permittee to report sampling results for the discharge of hydrostatic test waters. The discharges from this tank farm is treated through infiltration in the vegetated containment areas prior to settling in a pond located just before an oil/water separator that is designed to effectively treat discharges at a rate of 172 gpm. The previous permitting action listed the outfall pipe terminated above the high water level of the Penobscot River. Based on new information the outfall pipe which measures six inches in diameter outlets into the Silver Lake Outlet approximately 0.5 miles upstream of the confluence with the Penobscot River. The discharge location is shown in **Attachment A** of this Fact Sheet. There are no overflows, bypasses or emergency discharge locations associated with this outfall. The Tank Farm contains eight (8) above-ground bulk storage tanks (Tanks 1, 2, 3, 4, 5, 6, 7, & 8) having a total gross capacity of approximately 32,259,989 gallons, with the largest single tank having a capacity of 6,213,030 gallons. In the 2015 permit renewal application the permittee indicated that tanks #8 and #9 in Containment Area D are planned to be permanently closed or removed from the facility in the summer of 2015. The tank volumes are as follows;

Tank No.	Contents	Capacity in gallons
#1	No. 2 Fuel	6,213,655
#2	Diesel Fuel	4,958,274
#3	Jet Fuel	2,310,000
#4	Diesel Fuel	4,032,000
#5	Jet Fuel	2,310,000
#6	No. 2 Fuel	6,213,655
#7	No. 2 Fuel	6,213,655
#8	Additives	10,000
#9	Additives	10,000
#10	Additives	2,000
#13	Additives	5,000

2. PERMIT SUMMARY (cont'd)

Tanks 1-4, 10 and 13 are located in Containment Area A and Tanks 6 and 7 are located in Containment Area B. Both containment areas are composed of a gravelly clay lined base and walls with sufficient capacity to contain the entire contents of the largest tank in the event of a structural failure of a tank. In addition to tankage, there is an extensive above-ground and below-ground network of piping. Tank 5 is located in Containment Area C and Tanks 8 and 9 are located in Containment Area D.

The total drainage area of the site contributing to stormwater discharge at Outfall 001 is from the Tank Farm and from Loading Racks A, B, C and D. Loading Racks A & B are approximately 4,100 square feet of impervious surface (concrete), Loading Rack C is approximately 2,054 square feet of impervious surface (concrete) and Loading Rack D is approximately 2,507 square feet of impervious surface (concrete). Containment area A is approximately is approximately 287,044 square feet and Containment Area B is approximately 177,013 square feet. Therefore the total area contributing to stormwater discharge is 472,718 square feet of which 8,66 square feet is impervious.

In 2005 Webber constructed a berm around Loading Rack D preventing the co-mingling of stormwater from the parking lot with stormwater accumulated at the rack. The sources of pollutants at the loading rack originate from miscellaneous drips from tanker trucks which load product and other miscellaneous such as normal maintenance and repairs to the rack and incidental leaks and spills that may occur at the rack.

Sanitary wastewaters generated by employees at the facility are disposed of in an on-site sub-surface wastewater disposal system.

3. CONDITIONS OF PERMITS

Conditions of licenses, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A. § 420 and *Surface Waters Toxics Control Program*, 06-096 CMR 530 (effective March 21, 2012), require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective July 29, 2012), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of major river basins, 38 M.R.S.A. § 467(7)(F) classifies the Silver Lake Outlet as Class B waters. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(3) describes the classification standards for Class B waters.

4. RECEIVING WATER QUALITY STANDARDS (cont'd)

Classification of estuarine and marine waters, 38 M.R.S.A. § 469(4) classifies the Penobscot River as Class SC waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A. § 465-B(3) describes the classification standards for Class SC waters.

5. RECEIVING WATER CONDITIONS

The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act lists the Silver Lake Outlet at Bucksport (ADB Assessment Unit ID #ME0102000513_227R02) as, " Category 4-C: Rivers and Streams with Impairment not Caused by a Pollutant." The report states that other flow regimes alterations are the cause of the impairment.

The report also lists the Penobscot River Estuary at Bucksport (waterbody ID #722-45) as, "Category 4-B-1: Estuarine and Marine Waters Impaired by Pollutants – Pollution Control Requirements Reasonably Expected to Result in Attainment." The report states that toxins, dioxin and polychlorinated Biphenyls (PCBs) may impair fish consumption. The report indicates the causes of the impairment are industrial point sources, and combined sewer overflows.

The Report lists all of Maine's fresh waters as, "Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury." Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "All freshwaters are listed in Category 4-A (TMDL Completed) due to USEPA approval of a Regional Mercury TMDL. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Health and Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources." Pursuant to 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 and reporting requirements for this facility pursuant to 06-096 CMR 519.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Discharges from activities associated with bulk petroleum stations and terminal operations must satisfy best conventional technology (BCT) and best available technology (BAT) requirements and must comply with more stringent water quality standards if BCT and BAT requirements are not adequate.

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

This permit authorizes the discharge of treated stormwater and hydrostatic test wastewater with numeric effluent limitations which are within applicable water quality standards, and requires the continued implementation of a stormwater pollution prevention plan for additional protection of the environment. The effluent parameters for each waste stream are discussed in more detail below. The sections are arranged according to the effluent characteristic(s) being regulated:

a. Outfall #001 and #003 - Stormwater Runoff, Vehicle Wash Waters and/or Hydrostatic Test Wastewaters

It is noted that flows from the drainage area associated with Outfall #003 have been rerouted to discharge out Outfall #001, therefore limitations placed on Outfall #001 also cover flows from the drainage area associated with Outfall #003. Therefore the monitoring and reporting requirements for Outfall #003 have been eliminated.

1. Flow - Typically, the treatment technology for stormwater runoff employed by bulk storage petroleum terminals is an oil/water [O/W] separator. This device uses gravity to separate the lower-density oils from water, resulting in an oil phase above the oil/water interface and a heavier particulate (sludge) phase on the bottom of the O/W separator. It follows that the sizing of O/W separators is based on the following design parameters: water flow rate, density of oil to be separated, desired percentage removal of oil and the operating temperature range.

   The O/W separator daily maximum flow limit of 172 gallons per minute (gpm) is based on the capacity rating information provided by the permittee. The O/W separator daily maximum flow limit and minimum monitoring frequency requirement of once every calendar quarter is being carried forward in this permitting action.

   It is noted that during the previous permit outfall #003 was a designated outfall with a daily maximum flow limit of 94 gpm. The quarterly DMR data for the period November 2010 to February 2015 indicates the facility has been in compliance with the limitations 100% of the time and reported flow values as follows:

Outfall #001
Flow (DMRs=40)

Value	Limit (gpm)	Range (gpm)	Mean (gpm)
Daily Maximum	172	120 - 120	120

Outfall #003
Flow (DMRs=4)

Value	Limit (gpm)	Range (gpm)	Mean (gpm)
Daily Maximum	94	60 - 60	60

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

2. Total Suspended Solids (TSS) - Total suspended solids have been limited in this permit to minimize the potential carryover of petroleum fractions to the receiving water(s) by adsorption to particulate matter or suspended solids. Both heavy metals and polynuclear aromatic hydrocarbons (PAHs) readily adsorb to particulate matter.

   This permitting action is carrying forward the daily maximum TSS concentration limit of 100 mg/L based on an USEPA Region I best professional judgment (BPJ) determination that the technology guidelines promulgated at 40 CFR Part 423—*Steam Electric Power Generating Point Source Category* for point source discharges of low-volume wastewater were appropriate to control the discharge of sediment particles and oils from bulk storage petroleum terminals in the region.

   Based on the Department's Division of Envision of Environmental Assessment's BPJ that a more stringent water quality based effluent limitation is needed to ensure that aquatic life standards are being met in Silver Lake Outlet. Therefore, this permitting action is revising the twelve-month rolling averaging period requirement for compliance with the monthly average TSS concentration limit from 50 mg/L to 25 mg/L.

   As stated in footnote #3 of Special Condition A, *Effluent Limitations and Monitoring Requirements*, the 12-month rolling averaging period is based on the most recent twelve months with sampling data. Months where no discharge took place are excluded (i.e., do not figure in a zero) in the calculation.An example for calculating the 12-month rolling average is as follows:

   Calendar year 2015

Quarter #3		**Quarter #4**	
Month	Test Result	Month	Test Result
July	15 mg/L	Oct	50 mg/L
	53 mg/L	Nov	34 mg/L
Aug	31 mg/L		47 mg/L
Sept	71 mg/L		39 mg/L
	24 mg/L	Dec	No Discharge
	37 mg/L		

   Calendar year 2016

Quarter #1		**Quarter #2**	
Month	Test Result	Month	Test Result
Jan	25 mg/L	April	50 mg/L
	72 mg/L	May	34 mg/L
Feb	No Discharge		47 mg/L
Mar	71 mg/L		59 mg/L
	22 mg/L	June	89 mg/L
	26 mg/L		

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

$$\text{12-Month rolling average} = \frac{\Sigma \text{ effluent concentrations}}{\text{n results}} = \frac{896}{20} = 45 \text{ mg/L}$$

A review of the quarterly TSS data as reported on the DMRs submitted to the Department for the period November 2010 – February 2015 indicate the following:

Outfall #001
TSS concentration (DMRs=23)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
12 Month average	50	3 – 12	7
Daily Maximum	100	3 - 21	6

Outfall #003
TSS concentration (DMRs=23)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
12 Month average	50	7 – 19	11
Daily Maximum	100	3 - 12	5

3. Oil and Grease (O&G) – This permitting action is carrying forward the daily maximum oil and grease concentration limit of 15 mg/L based on Department BPJ as facilities equipped with properly designed, operated and maintained oil/water separator systems are capable of reducing oil content to 15 mg/L or less.

   A review of the quarterly O&G data as reported on the DMRs submitted to the Department for the period November 2010 – February 2015 indicates the following:

Outfall #001
Oil & Grease concentration (DMRs=23)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	15	<1 – 3.2	1.5

Outfall #003
Oil & Grease concentration (DMRs=4)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	15	<1 – 3.2	2.0

4. pH - The previous permitting action established seasonal (April – November) pH range limitation of 6.0 –8.5 based on a request by the National Marine Fisheries Services (NMFS) given migratory habits (April-November) of the Atlantic salmon in the Penobscot River. The NMFS contends that under adverse pH conditions, Atlantic salmon experience reduced feeding and growth, altered behavior, gill damage and endocrine and osmoregulatory disruption. The Department is carrying forward the seasonal pH range limitation of 6.0 –8.5 for the protecting of the Atlantic salmon during the migratory season. This permit provides for the discharge of storm water outside the specified pH if the cause is due to precipitation. In such an event, the pH

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

of the discharge may not be more than 0.5 standard units higher or lower than the ambient pH.

A review of the quarterly pH data as reported on the DMRs submitted to the Department for the period November 2010 – February 2015 indicates the following:

Outfall #001
pH (DMRs=31)

Value	Limit (su)	Range (su)
Daily Maximum	6.0 – 8.5	6.20 – 7.40

Outfall #003
pH (DMRs=3)

Value	Limit (su)	Range (su)
Daily Maximum	6.0 – 8.5	7.0– 7.2

b. Hydrostatic Test Wastewater - Outfall #004

The permittee has indicated that hydrostatic testing of pipelines and tanks with water is no longer the practice at the Bucksport facility. Pipelines are tested utilizing fuel product and tanks are tested via X-rays, eliminating the need for discharging hydrostatic test waters. However, the permittee would like to retain the option to do so. Therefore, the authorization to discharge hydrostatic test waters is being carried forward in this permitting action in accordance with the following conditions:

1. Flow – The previous permitting action is limiting the permittee to 6,300,000 gallons per discharge event which is equivalent to the largest tank volume on the farm. The limitation is being carried forward in this permitting action. A review of the DMR data for the period November 2010 – February 2015 indicates the permittee has not discharged hydrostatic test waters so there are no reported values for flow or any of the parameters that follow.

2. Total Suspended Solids – The previous permitting action established a daily maximum limit of 50 mg/L based on a Department BPJ of limits that are achievable given the tanks that are hydrostatically tested have been washed and cleaned in preparation for repair and testing. The limitation is being carried forward in this permitting action.

3. Oil & Grease – This permitting action is carrying forward a daily maximum oil and grease concentration limit of 15 mg/L that is a Department BPJ of limits that are achievable given the fact that the piping is new and the tanks that are hydrostatically tested have been washed and cleaned in preparation for repair and testing.

4. Total residual chlorine (TRC) – This permitting action is carrying forward a daily maximum TRC limit of 13 ug/L. This limitation is based on USEPA's acute criteria

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

maximum concentration (CMC) of 13 ug/L for marine waters. A chronic limit is not specified because the discharge is not continuous.

Compliance with the daily maximum TRC limitation is based on USEPA's current minimum level (ML) of detection of 50 ug/L (0.05 mg/L).

It is noted the quarterly Discharge Monitoring Reports (DMRs) are coded with the numeric value of 0.05 mg/L such that detectable results reported below the ML will not be considered a violation of the permit.

5. pH – For the same reason cited in Section 6(a)(4 of this Fact Sheet, the Department is carrying forward the limitation of 6.0 –8.5 standard units for the discharge of hydrostatic test waters.

7. PUBLIC COMMENTS

Public notice of this application was made in the *Ellsworth American* on or about March 5, 2015. 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 must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

8. DEPARTMENT CONTACTS

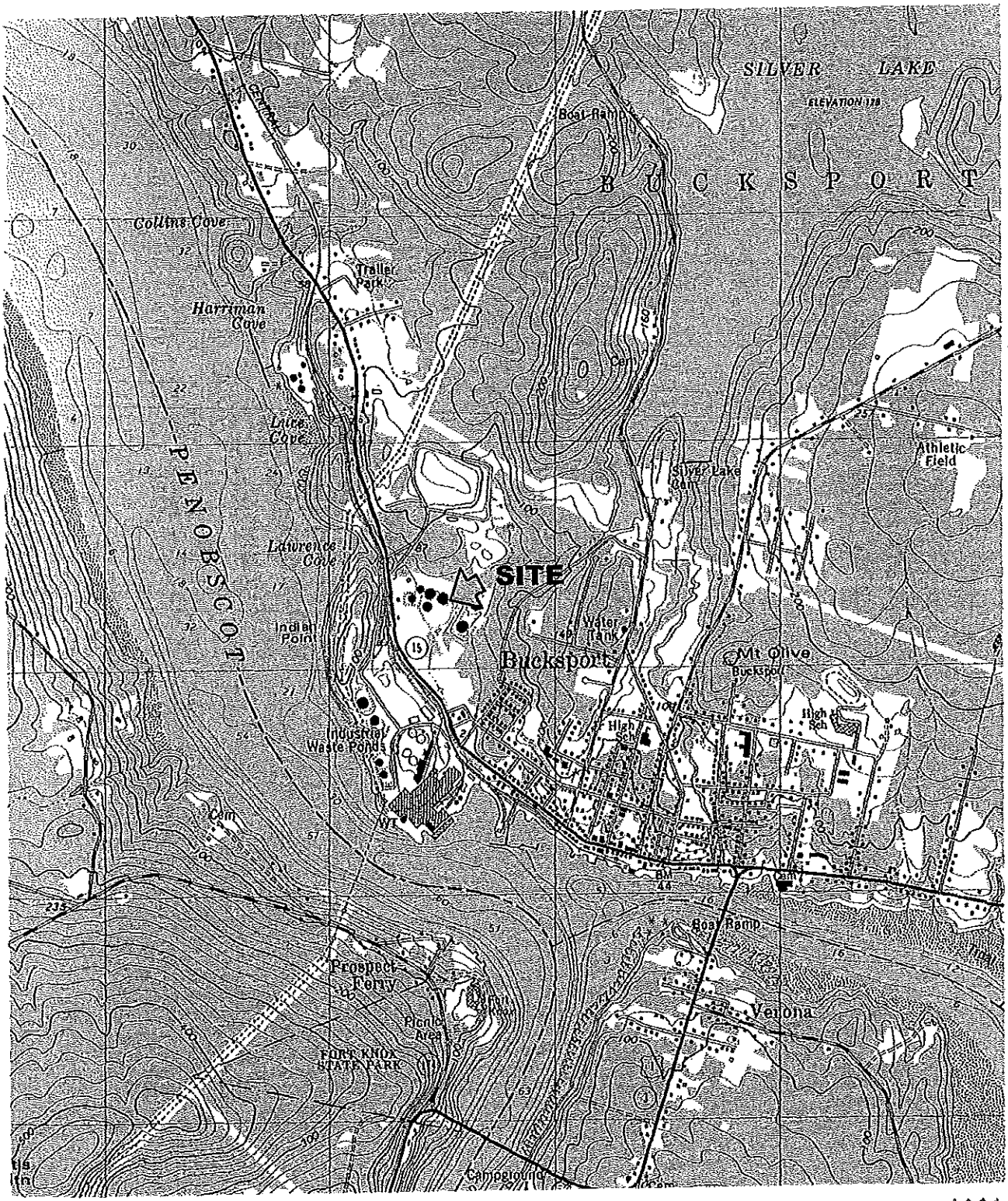
Additional information concerning this permitting action may be obtained from and written comments should be sent to:

Yvette M. Meunier
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 215-1579 Fax: (207) 287-3435
e-mail: yvette.meunier@maine.gov

9. RESPONSE TO COMMENTS

During the period of July 29, 2015 through the issuance of this permit, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to Webber for the proposed discharge. 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. It is noted that minor typographical and grammatical errors identified in comments are not included in this section, but were corrected, where necessary, in the final permit.

ATTACHMENT A



SOURCE:
U.S.G.S. TOPOGRAPHIC QUADRANGLE
BUCKSPORT
@ 1:24,000

CES INC

WEBBER TANKS
BUCKSPORT, MAINE
LOCATION MAP

2015-03-26
10144.005.2015

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.