STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

April 8, 2015

Mr. Jason Littlefield
185 International Drive
Portsmouth, NH 03801
littlefield@spragueenergy.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002208
Maine Waste Discharge License (WDL) Application #W002564-5S-G-R
Permit

Dear Mr. Littlefield:

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 207-446-1875.

Sincerely,

Rodney Robert
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Stacy Knapp, DEP/EMRO
Lori Mitchell, DEP/CMRO
Sandy Mojica US/EPA

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

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

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

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

web site: www.maine.gov/dep

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

DEPARTMENT ORDER

IN THE MATTER OF

SPRAGUE OPERATING RESOURCES LLC.	)	MAINE POLLUTANT DISCHARGE
SEARSPORT, WALDO COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
BULK FUEL STORAGE FACILITY	)	AND
#ME0002208	)	WASTE DISCHARGE LICENSE
#W002564-5S-G-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 SPRAGUE OPERATING RESOURCES LLC. (permittee/Sprague) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On April 29, 2014, the Department accepted as complete for processing, a renewal application from the permittee for Waste Discharge License (WDL) #W002564-5S-E-R, Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002208 which was issued on September 14, 2009 for a five-year term. The September 14, 2009 permit authorized the permittee to discharge treated storm water runoff up to a rate of 350 gallons per minute(gpm) Outfall #001 and 1,500 gpm (Outfall #003) and up to a daily maximum of 6.1 million gallons of hydrostatic test waters via Outfall #002 and up to 5.0 million gallons of hydrostatic test waters via Outfall #004 and storm water runoff from Outfalls #005 - #008 from a bulk fuel storage and transfer facility to the tidewaters of Searsport, Class SB and SC, Maine. See **Attachment A** of the Fact Sheet for a location map of the facility.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the previous permitting action, to include amendments made in the 11/12/2013 minor revision.

CONCLUSIONS

BASED on the findings summarized in the attached Fact Sheet dated April 8, 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) 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 SPRAGUE OPERATING RESOURCES LLC. to discharge treated storm water runoff up to a rate of 350 gallons per minute (gpm) Outfall #001 and 1,500 gpm (Outfall #003) and up to a daily maximum of 6.1 million gallons of hydrostatic test waters via Outfall #002 and up to 5.0 million gallons of hydrostatic test waters via Outfall #004 and storm water runoff from Outfalls #005 - #008 from a bulk fuel storage and transfer facility to the tidewaters of Searsport, Class SB and SC, 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)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 8th DAY OF April, 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for PATRICIA W. AHO, Commissioner

Filed
APR 09 2015
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection: _____

Date of initial receipt of application April 22, 2014.
Date of application acceptance April 29, 2014.

This Order prepared by Rod Robert, Bureau of Land and Water Quality

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The permittee is authorized to discharge treated storm water runoff and boiler blowdown to the tidewaters of Searsport. Such treated waste water discharges shall be limited and monitored by the permittee as specified below.

1. Outfall #001 - Storm water runoff and boiler blowdown

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow[2] *[50050]*	---	350 gpm *[78]*	1/ Quarter *[01/90]*	Measure *[MS]*
Total Suspended Solids [3] *[00530]*	50 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]*
pH[6] *[50060]* *April - November*	---	6.0 – 9.0 SU[6]	1/Discharge *[01/DS]*	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.

FOOTNOTES: **See Pages 9 through 11 of this permit for applicable footnotes.**

SPECIAL CONDITIONS

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

2. Outfall #002 – Hydrostatic test wastewater[1]

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow[2] *[00164]*	---	6.1 EE6 gal[7] *[53]*	1/Discharge *[01/DS]*	Measure *[MS]*
Total Suspended Solids [3] *[00530]*	---	50 mg/L *[19]*	1/Discharge *[01/DS]*	Grab[4] *[GR]*
Oil & Grease *[00552]*	---	15 mg/L *[19]*	1/Discharge *[01/DS]*	Grab[4] *[GR]*
Total Residual Chlorine[5]	---	0.013 mg/L	1/Discharge *[01/DS]*	Grab[4] *[GR]*
pH[6] *[50060]* *April - November*	---	6.0 – 9.0 SU[6] *[19]*	1/Discharge *[01/DS]*	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.

FOOTNOTES: See Pages 9 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS cont'd

3. Outfall #003 – Storm water runoff from the former DFSC facility

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow[2] *[50050]*	---	1,500 gpm[1] *[78]*	1/Discharge [01/DS]	Measure *[MS]*
Total Suspended Solids [3] *[00530]*	50 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]*
pH[6] *[00400]* *(April-November)*	---	6.0-9.0 SU[6] *[19]*	1/Discharge[6] *[01/30]*	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.

FOOTNOTES: See Pages 9 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

4. Outfall #004 – Hydrostatic test waters from the former DFSC facility

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow[2] *[51500]*	---	5.1EE6 gal[7] *[3R]*	1/Discharge *[01/DS]*	Measure *[MS]*
Total Suspended Solids[3] *[00530]*		50 mg/L *[19]*	1/Discharge *[01/DS]*	Grab[4] *[GR]*
Oil & Grease *[00552]*	---	15 mg/L *[19]*	1/Discharge *[01/DS]*	Grab[4] *[GR]*
Total Residual Chlorine[5]		0.013 mg/L	1/Discharge *[01/DS]*	Grab[4] *[GR]*
pH[6] *[00400]*	---	6.0-9.0 SU[6] *[19]*	1/Discharge[6] *[01/DS]*	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.

FOOTNOTES: See Pages 9 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

5. Outfall #008 – Stormwater runoff

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow[2] *[50050]*	---	Report gpm [78]	3/Year[8] *[01/DS]*	Estimate *[ES]*
Total Suspended Solids[3] *[00530]*	50 mg/L[3] *[19]*	100 mg/L [19]	3/Year *[01/DS]*	Grab[4] *[GR]*
pH[6] *[00400]*	---	6.0-9.0 SU[6] *[19]*	1/Month[6] *[01/30]*	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.

FOOTNOTES: See Pages 9 through 11 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES

Sampling Locations: Discharges from Outfall #001 and #003 must be sampled independently, prior to co-mingling with any other waste stream(s).

1. **Sampling** - All effluent monitoring must be conducted at the sampling locations listed above. Any change in sampling location must be approved by the Department in writing. 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 for wastewater. 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 (effective April 1, 2010). 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 this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.

2. **Flow** – The flow through the oil/water separators must consist of stormwater runoff and boiler blowdown only except as specified for hydrostatic test waters discharged through Outfall #002. 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 #002. No chemical treatment such as dispersants, emulsifiers or surfactants may be added to the oil/water separator or any wastewater discharge stream contributing flow to the separator.

   At no time must the flow through the oil/water separator exceed the design flow of 350 gpm for the separator for Outfall #001 or 1500 gpm for the separator for Outfall #003.

   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.

   It is noted that the separator for Outfall #003 has a flow restrictor currently in place to restrict flow to the design capacity of 1,500 gpm. Therefore, regular flow measurement requirements are not being established in this permit but an annual verification of the effectiveness of the restrictor is being required.

SPECIAL CONDITIONS

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

FOOTNOTES

3. **Total Suspended Solids (TSS)** – The monthly average concentration of 50mg/L for TSS is based on an average over the previous twelve-month period. 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. Only months where a discharge occurs are to be counted in the calculations. Months when there is no discharge, zeroes should not be entered and those months are not to be included in the calculations for the rolling twelve-month average.

4. **Grab Sample** - Stormwater runoff from one significant storm event per calendar quarter must be sampled for TSS and oil and grease for Outfall #001 and TSS and oil and grease for Outfall #003. A significant storm event is defined as any event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable storm event. Suitable size and type of samples must be collected in accordance with 40 CFR Part 136. Grab samples will be collected within the first hour (first flush) after the diked area(s) drainage area and/or pumpout has started. Separate aliquot samples must be taken for the analysis for each parameter.

5. **Total residual chlorine (TRC)** – For the purposes of this permit, compliance with the daily maximum limitation in this permit will be based on USEPA's current minimum level (ML) of detection of 0.05 mg/L (50 ug/L). The permittee shall utilize approved test methods that are capable of producing analytical results down to or below 0.05mg/L (50 ug/L). All analytical test results shall be reported to the Department including results which are detected below the ML. Results reported at or below the RL will be considered to be in compliance with the permit. The Discharge Monitoring Reports will be coded with the RL of 0.05mg/L (50 ug/L) such that detectable results reported at or below 0.05mg/L (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.

6. **pH** - Limitations and monitoring requirements are only applicable April – November (inclusive) of each year.

7. **Nomenclature** – EE6 means million gallons.

8. **3/Year** – One sampling event in the 2nd, 3rd and 4th quarters of each year.

SPECIAL CONDITIONS

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 uses 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. 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 #002 and 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. 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) 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). The permittee must maintain a copy of the SWPPP and associated records on-site for Department or USEPA staff inspection. The Standard Operating Procedure (SOP) Guidelines for Visual Monitoring of Stormwater Discharges Associated with Industrial Activities is included as **Attachment A** of this permit.

   b. **Within 60 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: **At a minimum frequency of once per calendar quarter**, the permittee shall perform and document a visual examination of a storm water discharge at the end of the storm water conduit for each outfall (Outfalls #002, #003, #004, #005, #007 and #008) in accordance with Department guidance #DEPLW0768, Standard Operating Procedure Guidelines for Visual Monitoring of Stormwater Associated with Industrial Activities, including associated Attachments A (Instructions for Completing the Visual Monitoring Form) and B (Visual Monitoring Form) (all included as Attachment A of this permit). The permittee shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The permittee must maintain the visual examination reports on-site with the SWPPP for a minimum of three years from the observation date.

SPECIAL CONDITIONS

F. 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 29, 2014; 2) the terms and conditions of this permit; and 3) only from Outfalls identified in this permit. 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.

G. MONITORING AND REPORTING

Monitoring results obtained during a quarter must be summarized for each quarter 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 Land and Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, ME 04401

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.

SPECIAL CONDITIONS

I. 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.

J. 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.

K. 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

Standard Operating Procedure
Bureau of Land and Water Quality
Date: April 20, 2006
Revised: February 3, 2012
Doc num: DEPLW0768

Bureau of Land and Water Quality
Division of Watershed Management
Industrial Stormwater Program

Standard Operating Procedures and Visual Monitoring Guidelines
for Stormwater Discharges Associated With Industrial Activities.

1. **APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all industrial facilities covered under Maine's Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity. Permitted facilities are required to perform quarterly visual monitoring of their stormwater discharges and record and maintain the results in the facility's Stormwater Pollution Prevention Plans (SWPPP).

   Visual monitoring is not required if a facility is participating in a 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 must be resumed if Benchmark monitoring, Numeric monitoring, or Impaired Waters sampling is terminated.

2. **PURPOSE.** This document provides guidelines for standardized collection and visual examination of quarterly visual monitoring samples for indicators of stormwater pollution as defined in Part VI of the MSGP and to provide guidelines describing standardized methods of data recording and record keeping of all quarterly visual stormwater discharge monitoring data as described in Part VI of the MSGP.

3. **DEFINITIONS.**

   3.1. MULTI-SECTOR GENERAL PERMIT (MSGP). A general permit for Stormwater Discharges Associated with Industrial Activity. Authorizes the direct discharge or point source discharge of stormwater associated with industrial activity to waters of the State (other than groundwater) or to an MS4 (which discharges to waters of the State), provided the discharge meets the requirements stated in this permit. This permit is effective April 26, 2011 and expires April 25, 2016. It replaces Maine's 2005 MSGP for Industrial Activity issued October 11, 2005.

   3.2. SWPPP. Stormwater Pollution Prevention Plan. A written plan developed and implemented by each permitted facility to reduce or eliminate pollutants which come in contact with stormwater associated with industrial activity. This plan outlines sources of potential stormwater pollutants and the methods by which these pollutants will be reduced or prevented from entering waters of the State.

   3.3. GRAB SAMPLE. A single sample or collection of stormwater taken during a qualifying storm event from a single stormwater outfall. The sample may be collected manually or with an automatic sampler.

3.4. OUTFALL. The point at which any direct discharge of stormwater from an area of industrial activity enters waters of the state, an MS4, or leaves the property. Examples include discharges from ditches, swales, catch basins, culverts or pipes, rills, boat ramps, or treatment systems such as detention ponds where the discharge is a shallow concentrated flow of stormwater that leaves the property or enters waters of the State.

3.5. QUALIFYING STORM EVENT. A storm event that is either precipitation, ice or snow melt that produces a measureable discharge at an outfall that occurs at least 72 hours from a previous measureable storm event.

4. RESPONSIBILITIES.

4.1. MONITORING PROGRAM IMPLEMENTATION. The visual monitoring schedule listed below in this section is also outlined Maine's 2011 MSGP Part VI(H). Visual examinations must be clearly documented and maintained in the facility's SWPPP. The permittee shall perform and document a quarterly visual examination of industrial stormwater discharges from each outfall which discharges stormwater associated with industrial activity from the facility.

4.2. OUTFALL IDENTIFICATION. The permittee shall identify each industrial stormwater outfall at the facility. All outfalls must be clearly identified on the facility site map which is part of the facility's SWPPP and presented in the written text of the SWPPP.

4.3. REPRESENTATIVE OUTFALLS. "Representative outfalls" mean two or more outfalls with a single drainage area that discharge substantially identical effluents, have like industrial activities and significant materials, or practices occurring within the outfalls' designated drainage area. If the facility contains representative outfalls, visual monitoring may be conducted at one of the outfalls during a given monitoring period provided that subsequent samples are taken from a different outfall within the representative outfalls' drainage area. The facility is not required to monitor more than one representative outfall within a designated drainage area per monitoring event as long as the site's SWPPP contains the required information as identified in Part VI (I) of the MSGP.

4.4. EMPLOYEE TRAINING. The permittee shall ensure that all facility personnel involved in stormwater sampling are properly trained. Staff involved in sampling shall:

a. Be familiar with the site map and outfall locations
b. Walk the site to physically identify each sampling location
c. Become familiar with local rainfall and drainage patterns
d. Become competent with proper sample collection procedures

Personnel involved in sampling should also be trained in all facility safety procedures as they apply to stormwater sampling. If possible, the same individual should carry out the

collection and examination of discharges for the entire permit term. Written documentation signed by the SWPPP team leader certifying that all personnel involved in sampling have been properly trained should be documented in the SWPPP.

4.5. SAMPLE COLLECTION FREQUENCY. Visual examination of industrial stormwater discharges must be performed once per monitoring quarter. If a qualifying storm event does not occur at the facility for a particular monitoring quarter, the permittee is excused from visual monitoring for that quarter, provided the permittee documents in the monitoring records that no qualifying event occurred. The Visual Monitoring Form shall be used to document both qualifying and non-qualifying storm events. Schedule of monitoring quarters is listed below.

- First: January 1 – March 31
- Second: April 1 – June 30
- Third: July 1 – September 30
- Fourth: October 1 – December 31

All other time specific sampling requirements are to be performed in accordance with the parameters outlined in the procedures section of this document.

4.6. RECORD KEEPING AND REPORTING. The permittee shall maintain all visual monitoring reports/records onsite with the SWPPP. The permittee is not required to submit visual monitoring results to DEP unless specifically requested to do so, or if the facility is required to submit an annual report as described in Part III (D)(1) of the MSGP. Requirements for recording visual examination data are outlined in the procedures section of this document.

5. PROCEDURES

5.1. SAMPLE COLLECTION TIMING. A grab sample must be collected from each facility outfall (except representative outfalls) once per quarter during a qualifying storm event. During a qualifying storm event, a grab sample for visual examination should be collected during the first 60 minutes or as soon thereafter, but must not to exceed 2.25 hours of when runoff begins discharging from an outfall. During monitoring quarters when snow or icemelt represents the only stormwater discharge, a grab sample must also be collected during periods of significant snow or ice melt within the first 60 minutes or as soon thereafter, but not to exceed 2.25 hours of when snow or icemelt begins discharging from an outfall. Stormwater runoff from employee parking lots, administration buildings, and landscaped areas that is not mixed with stormwater associated with industrial activity, or stormwater discharges to municipal sanitary sewers does not need to be sampled.

5.2. SAMPLE CONTAINER CLEANING AND PREPARATION. The facility should have an adequate supply of containers prepared for collection of industrial stormwater samples

from each outfall prior to collecting samples for visual examination. All sample containers used for sampling for visual examination should be certified as clean and free of residue. After each use and for cleaning the Imhoff Settling Cone or graduated beaker. A bottle brush will aid in removing any fine sediment trapped in the bottom point of the Imhoff cone:

- Wash containers in a non-phosphate detergent and tap water wash.
- Thoroughly fill and rinse containers with tap water at least three (3) times.
- Store containers closed, and in an area free of dust and other potential sample contaminants.
- If additional containers are needed to collect samples from less accessible outfalls (e.g. buckets which are attached to poles for reaching outfalls), these containers should also be cleaned and prepared as indicated above.

5.3. SAMPLE EXAMINATION. Samples should be examined in clear glass or clear plastic container prepared and cleaned as indicated above, so that all visual monitoring criteria can be observed.

MANUAL GRAB SAMPLE COLLECTION. Manual grab samples should be collected by inserting a container under or downstream of a discharge with the container opening facing upstream, and with the opening of the container completely immersed under water, whenever possible. A sample container at least 1000 ml should be used to collect the sample. The container must be able to be submersed so that the container opening is held under water while still collecting an adequate sample size to make a correct visual inspection. In most cases the sample container can be held in hand while the sample is collected. Less accessible outfalls may require the use of poles and buckets to collect grab samples. Take the grab from the horizontal and vertical center of the outfall. If sampling in a channel, (e.g., ditch, trench, rill) avoid stirring up bottom sediments. Avoid touching the inside of the container to prevent contamination. Transfer sample to a clear glass or plastic container if using another container such as a bucket to collect a sample from a less accessible location. If taking samples from multiple outfalls, label containers with outfall identification prior to taking samples. Make sure samples are securely capped until examination.

COLLECTION OF GRAB SAMPLES BY AUTOMATIC SAMPLER. Facilities which use automatic samplers for stormwater sampling may collect grab samples for visual examination by this method. Programming for collecting grab samples is specific to the type of automatic sampler. All facility personnel who collect stormwater samples using automatic samplers should be properly trained in operation of the sampler before doing so. Several different types of automatic samplers are available for stormwater sampling. However, the following guidelines should be followed when sampling regardless

of the type of sampler used. All equipment must be properly cleaned, particularly the tubing and sample containers. Deionized water should be drawn through the sampler to remove any residuals prior to taking samples. Tubing should also be periodically replaced to avoid algae or bacterial growth. Additionally, a distilled/deionized water blank sample should be taken at each outfall sampled to determine if contamination of stormwater samples by the sampling equipment has occurred. Samplers should be used in exact accordance with the manufacturers' instructions. All sampler calibration and maintenance data should be kept on site with the SWPPP.

5.4. SAMPLE EXAMINATION. Visual examination of all grab samples collected must be performed within the first sixty (60) minutes. Bring the collected samples to a well lit indoor area. Pour each sample into a separate 1 L polycarbonate plastic graduated Imhoff settling cone or 1000 ml graduated cylinder. The Imhoff settling cone or beaker should have graduations that allow volume measurement to the nearest milliliter. Record the total sample volume to the nearest milliliter on the visual monitoring form. Examine the samples for the following criteria according to the instructions provided with the visual monitoring form: Foam, odor, clarity, floating solids, suspended solids, color, oil sheen, settled solids, and any other obvious indicators of stormwater pollution. Read the settled solids 1 hour after pouring the sample into the cone, as this assures that all solids are settled out of the water. Settled solids in the bottom of the cone should be measured to the nearest milliliter.

*Note: Clear polycarbonate plastic Imhoff cones are available from several scientific supply companies. You may also purchase 1000 ml graduated beakers from various scientific supply companies.

5.5. SAMPLE DATA RECORDING. Record all sample data on the visual monitoring form after examining the sample for all of the criteria listed in the instructions. The form should include the examination date and time, examination personnel, the nature of the discharge (e.g., rain, snow or icemelt), identification of outfall sampled, quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and any other obvious indicators of stormwater pollution), and probable sources of any observed contamination. The permittee must sign and certify the documentation in accordance with Part VIII (E) of the Maine MSGP. All visual examination reports must be maintained with the facility SWPPP.

5.6. RECOMMENDATIONS FOR SOLVING SAMPLE LOCATION PROBLEMS. Consult guidelines listed below when it is necessary to sample an outfall located at a less than ideal location for sampling.

- PROBLEM: Sampling where stormwater comingles with process water or other non-stormwater discharge.

RECOMMENDATION: Attempt to sample the stormwater discharge before it mixes with the non-stormwater discharge. If this is impossible, sample the discharge and maintain a record of the visual examination data observed under both conditions on site with the SWPPP. This will provide an indication of the contribution of any observable contamination from each source.

- PROBLEM: Numerous small point channels make up an outfall from which it is difficult to collect a sample.

  RECOMMENDATION: Impound channels or join their flow together by building a weir or digging a ditch to collect discharge at a low point for sampling. This artificial collection point should be lined with plastic or filter fabric and stone to prevent infiltration and/or high levels of sediment.

- PROBLEM: Inaccessible discharge point. Examples include underwater discharges or unreachable discharges (e.g., out of a cliff, steep slope or bank of a stream).

  RECOMMENDATION: Go up the pipe to sample (e.g., to the nearest manhole or inspection point). If these are not available, tap into the pipe, or sample at several locations upstream of the pipe if the pipe is the only outfall for the facility.

- PROBLEM: Managing multiple sampling sites to collect grab samples during the first 60 minutes of a measurable storm event.

  RECOMMENDATION: Have a sampling crew ready to help when forecasts indicate that a measurable storm event is likely to occur. If this is not possible, sample the missed outfall locations during other measurable storm events and record this circumstance in the SWPPP.

- PROBLEM: Commingling of parking lot runoff with discharge associated with industrial activity.

  RECOMMENDATION: The combined runoff must be sampled at the discharge point as near as possible to the industrial activity or at the parking lot drain inlet if there is one.

- PROBLEM: Sampling in manholes.

  RECOMMENDATION: Sample with a collection device on the end of a pole to reach stormwater. Personnel sampling in manholes should have confined space safety training and ambient air monitoring sampling devices if manholes have to be entered.

- PROBLEM: Run-on from other property.

RECOMMENDATION: If possible, collect and examine a sample of the stormwater at the border of the property where the run-on occurs. Then, collect and examine a sample of the stormwater at a facility outfall downstream of the run-on point. Note any observable differences between the samples and maintain the documentation with the SWPPP.

- When confronted with other difficult sampling scenarios not addressed above, the permittee should consult DEP for guidance on how to best address the situation.

6. REFERENCES

6.1. GUIDANCE MANUAL FOR THE MONITORING AND REPORTING REQUIREMENTS OF THE NPDES MULTI-SECTOR STORM WATER GENERAL PERMIT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-B-99-001(January, 1999)

6.2. NPDES STORM WATER SAMPLING GUIDANCE DOCUMENT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-8-92-001 (July, 1992)

6.3. STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION MULTI-SECTOR GENERAL PERMIT MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY
Maine Department of Environmental Protection, Bureau of Land and Water Quality, Waste Discharge License # W-008227-5Y-B-R (April 25, 2011)

Standard Operating Procedure
Bureau of Land and Water Quality
Attachment B
Date: April 20, 2006
Revised: February 1, 2012
Doc Number: DEPLW0768

Visual Monitoring Form

Facility Name:_____ Sampler's Name:_____
Facility Address:_____ MSGP Permit Number:_____
_____
_____ 72 Hours Since last Measurable Storm? ☐ Yes ☐ No

Measurable Discharge from outfall? ☐ Yes ☐ No

Outfall Number						
Observation Time						
Est. Time from Onset of Runoff						
Discharge Type (rain, snow melt or ice melt)						
Sample Volume (ml)						
Color						
Odor						
Clarity						
Floating Solids*						
Settled Solid*						
Suspended Solid*						
Foam						
Oil Sheen						
Possible Source of Any Observed Contamination						

*Enter a description of corresponding criteria for each outfall in the General Comments section of this document.

Under penalty of law I certify that these statements are true and correct pursuant to the terms and conditions stated in the MPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity.

Sample's Signature:_____ Date:_____

Standard Operating Procedure
Bureau of Land and Water Quality
Attachment B
Date: April 20, 2006
Revised: February 1, 2012
Doc Number: DEPLW0768

General Comments

In the comments section, enter physical description of floating, settled, and suspended solids for each outfall sampled. Enter general comments on the condition and appearance of each outfall in the comments section also as indicated in the instructions.	
Outfall 1	Comments:
Outfall 2	Comments:
Outfall 3	Comments:
Outfall 4	Comments:
Outfall 5	Comments:
Outfall 6	Comments:

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **APRIL 8, 2015**

PERMIT NUMBER: **#ME0002208**

WASTE DISCHARGE LICENSE: **#W002564-5S-G-R**

NAME AND ADDRESS OF APPLICANT:

SPRAGUE OPERATING RESOURCES LLC.
TWO INTERNATIONAL DRIVE, SUITE 200
PORTSMOUTH N.H. 03801-6809

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

TRUNDY ROAD
MACK POINT
SEARSPORT, MAINE 04974

COUNTY: **WALDO**

RECEIVING WATER CLASSIFICATION: **Tidewater of Searsport, Class SB & SC**

COGNIZANT OFFICIAL CONTACT INFORMATION:

Jason Littlefield
(603) 430-7205
EMAIL: littlefield@spragueenergy.com

1. APPLICATION SUMMARY

Application: On April 2, 2014, the Department of Environmental Protection (Department) accepted as complete for processing from SPRAGUE OPERATING RESOURCES LLC. (permittee) a renewal application for Waste Discharge License (WDL) #W002564-5S-E-R Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002208 which was issued on September 29, 2009 for a five-year term. The September 29, 2009 permit authorized the permittee to discharge treated stormwater runoff up to a rate of 350 gallons per minute(gpm) Outfall #001 and 1,500 gpm (Outfall #003) and up to a daily maximum of 6.1 million gallons of hydrostatic test waters via Outfall #002 and up to 5.0 million gallons of hydrostatic test waters via Outfall #004 and storm water runoff from Outfalls #005 - #008 from a bulk fuel storage and transfer facility to the tidewaters of Searsport, Class SB and SC, Maine.

2. PERMIT SUMMARY

a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions of the previous permitting action, to include amendments made in the 11/12/13 Minor Revision.

b. History: The most current relevant regulatory actions and or significant events include the following:

February 22, 2000 – The Department issued WDL #W002564-5S-B-R renewal for a five-year term.

October 30, 2003 – Sprague submitted an application to the Department to modify and renew the WDL for the Searsport facility. The primary purpose of the modification was to issue a combination MEPDES permit/WDL for the discharge(s) from the facility and retire the NPDES permit issued by the EPA.

April 14, 2004 – The Department issued combination MEPDES permit #ME0002208/WDL W002564-5S-C-R for a five-year term.

December 13, 2006 – The Department issued a combination MEPDES permit modification #ME0002208/WDL W002564-5S-D-M to incorporate two additional outfalls from the then newly acquired tank farm from the DFSC.

April 8, 2009 – Sprague submitted a timely and complete application to the Department for renewal of the MEPDES permit

September 14, 2009- The Department issued combination MEPDES permit #ME0002208/WDL W002564-5S-E-R for a five year term.

November 12, 2013- The department issued a combination MEPDES permit modification #ME0002208/WDL002564-5S-F-M to remove a benzene monitoring requirement from Outfall #001 and to acknowledge a name change to Sprague Operating Resources LLC.

April 29, 2014 – Sprague submitted a timely and complete application to the Department for renewal of the MEPDES permit.

c. Source Description: The permittee's facility is engaged in the transfer (ship to shore), storage and distribution of refined petroleum products. Historically these products included gasoline and distillate oils as well as numerous bulk materials such as coal, petroleum coke, road salt, aluminum hydrate, and gypsum rock. At the time of this permitting action the Permittee has indicated that the facility will no longer handle or store coal and that the area formerly used to store bulk quantities of coal will instead be used to store recycled steel. Sprague's site has a number of above-ground storage tanks having a gross capacity of approximately 330,500 barrels (13,881,000 gallons) for gasoline and distillate oils. The former DFCS site has nine additional tanks that are used to store and distribute #2 fuel oil.

2. PERMIT SUMMARY (cont'd)

The largest tank on the former DFSC site is 5,100,000 gallons (5.1 EE6). In addition to tankage, there is an extensive above-ground and below-ground network of piping. There is a marine docking facility to transfer product from ships and or barges to the shore and a loading rack area where product from the storage tanks is transferred to tanker truckers to be distributed to local fuel oil dealers and gasoline stations for distribution to the general public.

Each of the storage tanks on both the existing and new sites are enclosed in an unlined area of earthen dikes or concrete walls. The diked areas are designed to contain the contents of the enclosed tanks plus an additional volume to contain any extinguishment chemicals or water and precipitation. The dikes are required by the Town of Searsport for safety to prevent product from spilling from one tank area to another or directly into a receiving waterbody, provide temporary containment in the event of a tank failure and isolate tanks in the event of a major fire in a tank. The remainder of the site consists of an office building, a warehouse complex and a truck loading rack area. Storm water from the bulk material storage areas are managed through wet detention ponds to address TSS in those areas.

If necessary, hydrostatic test water is used to test the tank integrity. The test water is from tanks which have been washed and cleaned in preparation for repair and then cleaned before testing. The permittee has indicated that hydrostatic testing of its largest tank would discharge approximately 6.1 million gallons. In a letter dated July 30, 2001 to the Department, Sprague indicated that approximately 2,100 gallons per day of boiler blowdown is also being discharged via Outfall #001. Sanitary waste waters generated by employees at the facility are disposed of in an on-site sub-surface waste water disposal system designed and constructed in accordance with the Maine State Plumbing Code.

d. Wastewater Treatment: Most of the storm water is captured and detained in the diked areas around the various tanks. These individual diked areas are either manually drained by gravity or pumped out and conveyed to an oil/water separator where it receives best practicable treatment prior to discharge. The valves serving the drain lines are always kept closed for safety and must be opened each time a diked area is drained. The 4/29/14 permit application indicates that the oil/water separator for Outfall #001 (Lower Tank Farm) is rated for 350 gallons per minute (gpm) and services approximately 12 acres. The separator for Outfall #003 (North Tank Farm) is rated for 1,500 gpm and services approximately 20 acres.

After passing through the oil/water separator for Outfall #001, treated runoff is piped to an open drainage channel on the north side of the Bangor & Aroostook railroad. The runoff is conveyed westerly along the railroad bed to a culvert under the railroad bed and discharged to the receiving waters. The culvert under the railroad bed is a corrugated metal pipe measuring 24 inches in diameter and outlets above the level of the water at mean low water.

2. PERMIT SUMMARY (cont'd)

After passing through the oil/water separator for Outfall #003, waste waters are discharged to the receiving waters via an 18-inch diameter pipe that is exposed at mean low water.

Hydrostatic test waters associated with the Lower Tank Farm are physically discharged through Outfall #001 but assigned an administrative outfall number of Outfall #002 for reporting test results. Hydrostatic test waters associated with the North Tank Farm are physically discharged through Outfall #003 but assigned an administrative outfall number of Outfall #004 for reporting test results. This permit does not require further treatment of the hydrostatic testing water unless dechlorination is required to protect water quality.

Untreated storm water for the area referred to as the Upper Yard area (3 acres) is discharged to the receiving waters via an open ditch designated as Outfall #005. Untreated storm water for the area referred to as the Lower Yard area (2.5 acres) is discharged to the receiving waters via an open ditch designated as Outfall #006. Untreated storm water for the area referred to as the Southeast Yard area (2.5 acres) is discharged to the receiving waters via a 6-inch diameter pipe designated as Outfall #007. Treated storm water for the area referred to as the coal pile area (5 acres) is discharged to the receiving water (after passing through a detention pond) via a 6-inch diameter outfall pipe, Outfall #008. The Permittee has indicated, in a letter dated January 8, 2015, that the facility will no longer handle coal.

See **Attachment B** of this Fact Sheet for a site schematic showing the location of the outfall pipes.

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, 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

Maine law, 38 M.R.S.A., Article 4-A §469(6)(C) classifies the tidewaters of Searsport at the point of discharge from Outfall #001 and #002 as a Class SC waterway. Maine law, 38 M.R.S.A., Article 4-A, §465-A(3) describes the classification standards for Class SC waters. For Outfall #003 and #004, Maine law, 38 M.R.S.A., Article 4-A §469(6)(C) classifies the tidewaters of Searsport at the point of discharge from Outfall #003 and #004 as a Class SB waterway. Maine law, 38 M.R.S.A., Article 4-A, §465-B(2) describes the classification standards for Class SB 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 tidewaters of Searsport at the point of discharge as, "Category 4-A: Estuarine and Marine Waters with Impaired Use, TMDL Completed." Current sampling of the 4.36 square mile area, designated Waterbody ID 722-24, indicated the presence of elevated fecal levels. The Department completed the TMDL in 2009 and it was approved by USEPA on September 28, 2009.

The report also lists the tidewaters of Searsport as "Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants." All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D for shellfish consumption due to elevated levels of PCBs and other persistent, bioaccumulating substances in tomalley.

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 best conventional technology and best available technology requirements are not adequate. On September 25, 1992 USEPA promulgated through its General Permit for Storm Water Discharge Associated with Industrial Activity, that the minimum BAT/BCT requirements for storm water discharge associated with industrial activity is a Storm Water Pollution Protection Plan (SWPPP) [57FR, 44438]. In addition to a SWPPP, the Department is carrying forward numeric effluent limitations and or monitoring requirements forward from the previous MEPDES permit/WDL action for petroleum constituents to ensure the discharge(s) do not contribute to violations of the State's water quality standards.

This permit authorizes the discharge of treated stormwater and hydrostatic test wastewater and boiler blowdown waters 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:

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

a. Tank Farm Stormwater Runoff Only – Outfall #001, #003

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 limits of 350 gpm for Outfall #001 and 1,500 gpm for Outfall #003 are 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.

   The quarterly Discharge Monitoring Report (DMR) data for the period September 2009 to August 2014 indicates the facility has been in compliance with the flow limitation 100% of the time.

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's best professional judgment 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.

   This permitting action is carrying forward the twelve-month rolling averaging period requirement for compliance with the monthly average TSS concentration limit of 50 mg/L based on the Department's best professional judgment.

   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.

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

A summary of the quarterly TSS data as reported on the DMRs submitted to the Department for the period September 2009 – August 2014 indicate the following:

Outfall #001
TSS (N =17)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	100	2.8– 98	30.9
Monthly Average	50	13-74	24.1

Outfall #003
TSS (N =17)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	100	2.6 - 84	10.1
Monthly Average	50	3.8 - 33	13.9

3. **Oil and Grease** – 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 summary of the quarterly oil and grease data as reported on the DMRs submitted to the Department for the period September 2009 – August 2014 indicate the following:

Outfall #001
Oil and Grease

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum (n=17)	15	1 – 2. 8	0.48

Outfall #003
Oil and Grease

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum (n=17)	15	1 – 1.3	0.18

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

4. Benzene - Three gasoline compounds with the highest solubility are: naphthalene, propylene, and benzene. Propylene and naphthalene, however, are minor constituents of gasoline. In the past, benzene has been selected as the main pollutant of concern in light distillates such as gasoline since it existed in light distillates at significant concentrations.

   A traditional approach to limiting effluents contaminated with gasoline or other light distillates has been to limit the aggregate parameter of: benzene, ethylbenzene, toluene, and total xylenes (BETX). This approach stems from the petroleum industry's practice of determining the quality of fuels by measuring BETX, which can be highly variable among gasoline products. Of the four aromatics, benzene is by far the most soluble in water. Because of its relatively high solubility in water, benzene can be considered the "limiting pollutant parameter."

   The 11/12/2013 Minor Revision removed the monitoring requirement for benzene from Outfall #001, previously established in the September 14, 2009 permitting action, by request of the permittee due to the fact that they no longer stored bulk gasoline nor do they intend to store bulk gasoline in the future.

   As of this permitting action the facility does not store bulk gasoline, therefore, no monitoring requirement for benzene is being established.

   Per Standard Condition D, the permittee is required to 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.

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

5. pH – During the 4/14/04 permitting action, the National Marine Fisheries Services (NMFS) recommended that the Department establish a pH range limitation due to migratory habits (April-November) of the Atlantic salmon in the Penobscot River. Under adverse pH conditions, Atlantic salmon experience reduced feeding and growth, altered behavior, gill damage and endocrine and osmoregulatory disruption. The Department established a seasonal (April – November) pH range limitation of 6.0 –9.0 for Outfall #001 and Outfall #003 for the protection of Atlantic salmon during the migratory season. The limitations are being carried forward in this permitting action.

   The quarterly DMR data for the period September 2009 to August 2014 indicates the facility has been in compliance with the limitations 100% of the time and reported pH values as follows:

Outfall #001
pH

Value	Limit (su)	Range (su)
Daily Maximum	6.0 – 9.0	6.80 – 7.31

Outfall #003
pH

Value	Limit (su)	Range (su)
Daily Maximum	6.0 – 9.0	6.60 – 7.30

b. Hydrostatic Test Wastewater - Outfall #002 and #004

The permittee has indicated that hydrostatic testing of pipelines and tanks with water is no longer the normal practice at the Searsport facility. Pipelines are tested utilizing fuel product and tanks are tested via X-rays, eliminating the need for discharging hydrostatic test waters. The DMR data for the period September 2009 to August 2014 indicates the facility has not discharged hydrostatic test waters from either outfall during said period. The previous permitting actions and this permitting action established limitations and monitoring requirements as follows:

1. Flow – The previous permitting actions established and maintained a flow limitation of 6,100,000 gallons for Outfall #002 as this was the volume of the largest tank on the Lower Tank Farm that is being carried forward in this permitting action. The previous permit modification established a daily maximum flow limitation of 5,100,000 gallons for the largest tank on the North Tank Farm that is also being carried forward in this permit.

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

2. Total Suspended Solids (TSS) – The previous permitting actions established daily maximum limits of 50 mg/L for Outfall #002 and #004 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 limitations are being carried forward in this permitting action.

3. Oil and Grease – The previous permitting action establish daily maximum concentration limits of 15 mg/L for Outfall #002 and #004 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 limitations are being carried forward in this permitting action.

4. Total residual chlorine (TRC) – The previous permitting action established a daily maximum TRC limit of 13 ug/L or 0.013mg/L for Outfalls #002 and #004. The limitations are based on EPA's acute criteria maximum concentration (CMC) of 13 ug/L or 0.013 mg/L for marine waters. The limitations do not take into consideration dilution in the receiving water due to the fact that the outfall pipes for Outfalls #002 and #004 do not have a diffuser and are above the high and low water marks. A chronic limit is not specified because the discharge is not a continuous discharge.

   Compliance with the daily maximum limitations will be based on EPA's minimum level (ML) of detection of 50 ug/L or 0.05 mg/L. All analytical test results shall be reported to the Department including results which are detected below the ML of 0.05 mg/L.

5. pH – For the same reason cited in Section 7(a)(5) of this Fact Sheet, the Department established a limitation of 6.0 –9.0 standard units for the discharge of hydrostatic test waters for Outfalls #002 and #004. The limitations are being carried forward in this permitting action.

c. Yard area storm water runoff (Outfalls #005, #006 & #007)

This permitting action does not establish numeric limitations or monitoring requirements for these outfalls but the permittee is required to maintain a current Storm Water Pollution Prevention Plan (SWPPP) to minimize pollutants discharged from these three outfalls.

d. Recycled Steel storm water runoff (Outfall #008)

Limitations and monitoring requirements established for this outfall are flow, TSS and pH based on a Department best professional judgment of pollutants of concern for this discharge. Limitations and monitoring requirements established for each parameter and the basis for each are consistent with the limits and monitoring requirements for the other outfalls regulated by this permit.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper on or about March 7, 2014. 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).

9. DEPARTMENT CONTACTS

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

Rod Robert
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 446-1875 Fax: (207) 287-3435
e-mail: rodney.robert@maine.gov

10. RESPONSE TO COMMENTS

During the period February 16, 2016, through the issuance of this permit, the Department solicited comments from state and federal agencies as well as parties that expressed interest in the proposed draft permit for the permittee's facility. The Department did receive written comments from the Islesboro Islands Trust and from Concerned Residents & Small Businesses of Searsport in Searsport, Maine.

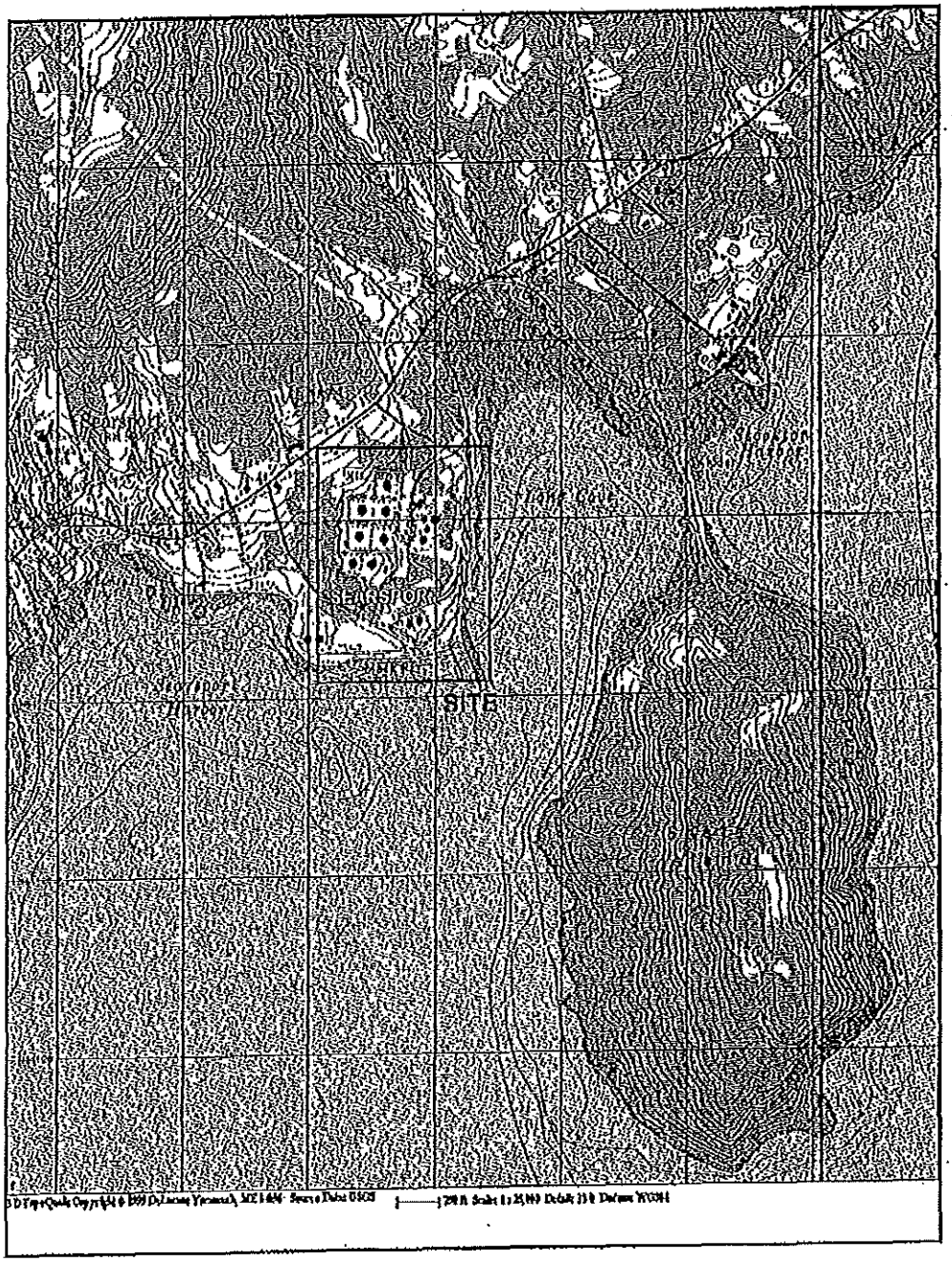
Comments received by the Department were not directly related to the Proposed Draft Permit for Sprague Operating Resources LLC, but rather, they voiced concerned response to a proposed plan by Grimmel Industries to occupy space on the grounds of Sprague's Searsport facility and conduct operations focused on the storage, shipping and receiving of recycled scrap metal. Specifically, Commenters are fearful that Grimmel Industries will operate in the Searsport location without the appropriate discharge limitations and testing required for the receiving water body to meet and maintain water quality standards. Commenters are also concerned that the proposed operation by Grimmel will adversely affect the recreational and scenic qualities enjoyed by those visiting and using the receiving water body.

10. RESPONSE TO COMMENTS (cont'd)

Under Maine law, it is required for the operator of a facility to obtain a permit prior to engaging in any industrial activity which would result in a stormwater discharge to a body of water. This is explained by the Regional Administrator for USEPA Region 1 in a letter to Senator Susan Collins on March 11, 2015 in reference to the Searsport facility permitting process; " In a scenario where there are two separate operators located at one location, each operator has an independent obligation to obtain a permit." USEPA, Sprague Operating Resources LLC. and Grimmel Industries are all aware and in agreement that, prior to commencing operations at the Searsport facility, Grimmel Industries will have to apply for its own permit to discharge stormwater to the tidewaters of Searsport, Maine. Therefore, the Department has not made any substantive changes to this permit and is issuing it as it appeared in its proposed draft form.

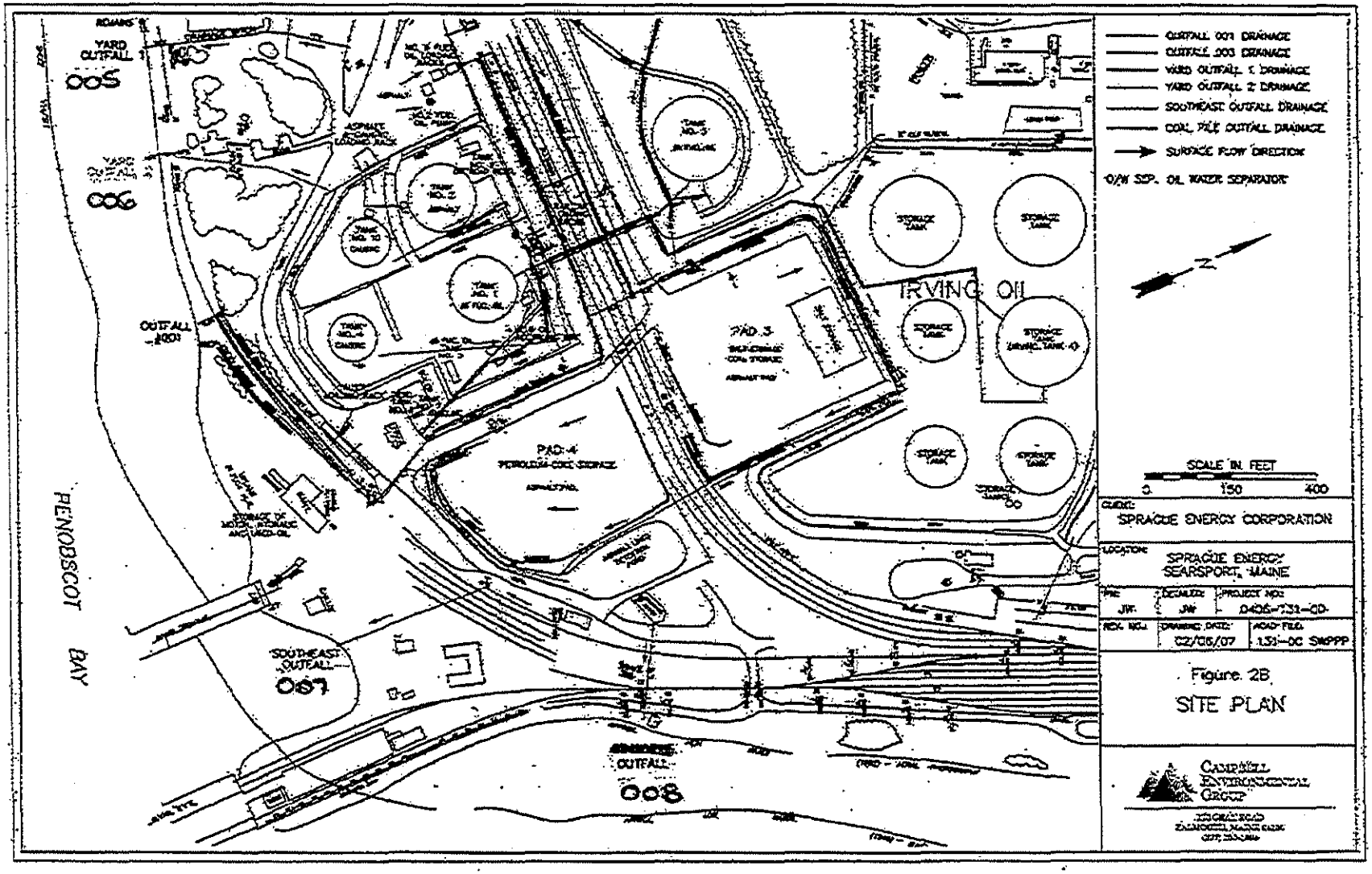
ATTACHMENT A

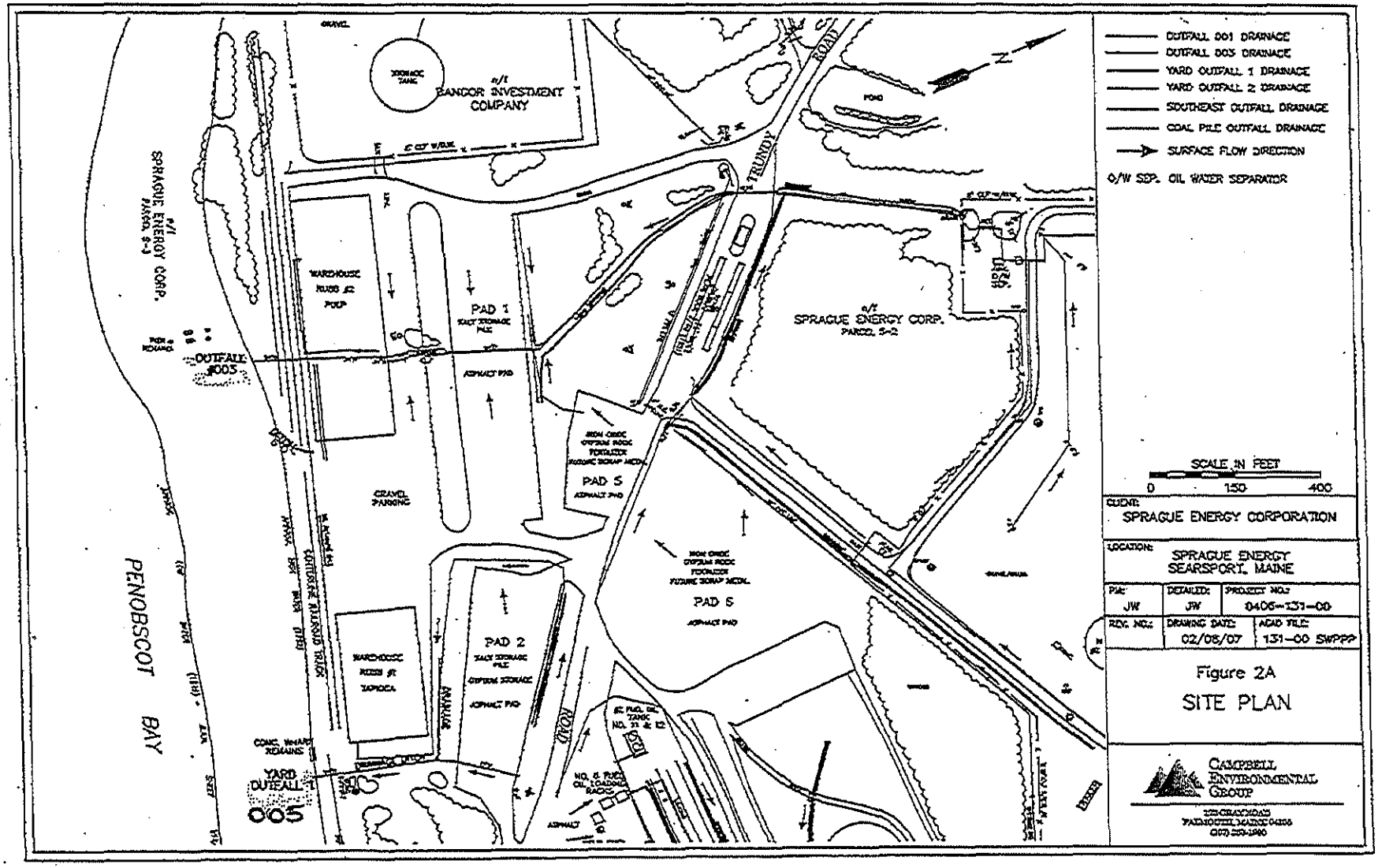
FIGURE 1
Sprague Mack Point Terminal
Searsport, Maine

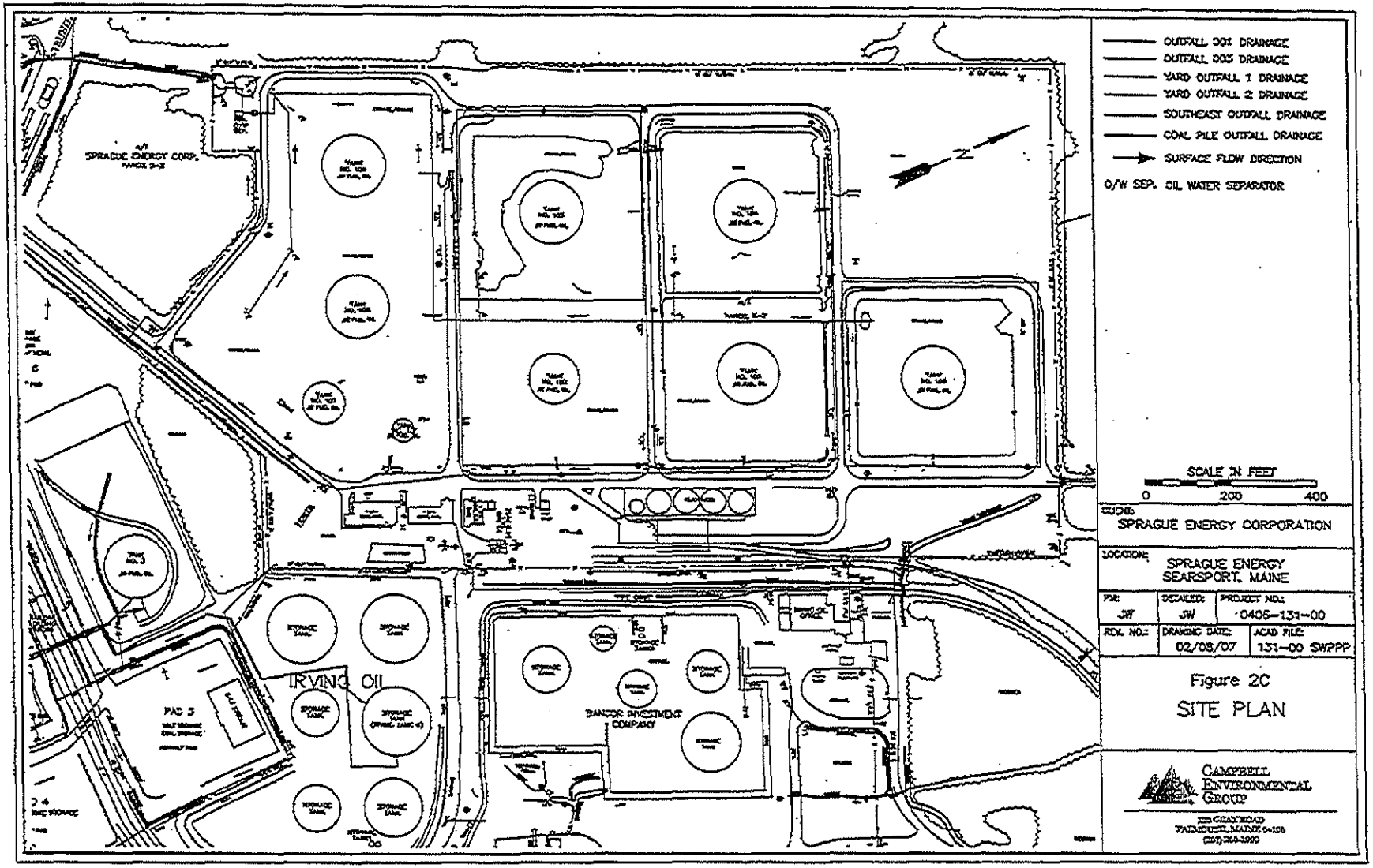


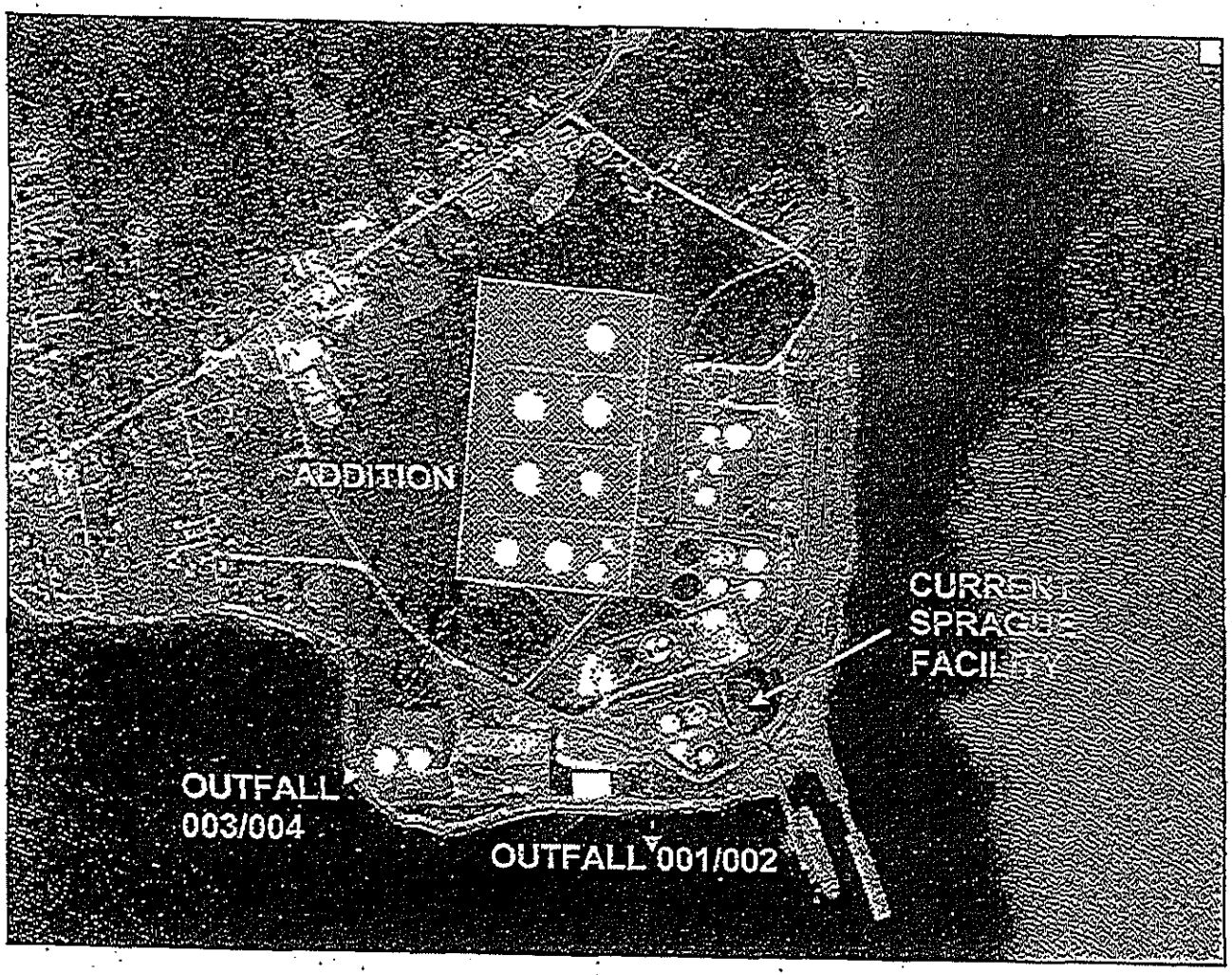
ATTACHMENT B

Searsport Site Diagram




PENOBSCOT BAY
SPRAGUE ENERGY CORP. PARCEL 5-3
BANGOR INVESTMENT COMPANY
SPRAGUE ENERGY CORP. PARCEL 5-2
TRUNDY ROAD
WAREHOUSE
PAD 1
PAD 2
PAD 5
PAD 6
GRAVEL PARKING
OUTFALL 003
YARD OUTFALL 1
003
CONC. WHARF REMAINS
WAREHOUSE
TAPIOCA
IRON CREEK
OUTFALL 001 DRAINAGE
OUTFALL 003 DRAINAGE
YARD OUTFALL 1 DRAINAGE
YARD OUTFALL 2 DRAINAGE
SOUTHEAST OUTFALL DRAINAGE
COAL PILE OUTFALL DRAINAGE
SURFACE FLOW DIRECTION
O/W SEP. OIL WATER SEPARATOR
SCALE IN FEET
0
150
400
CLIENT:
SPRAGUE ENERGY CORPORATION
LOCATION:
SPRAGUE ENERGY
SEARSPORT, MAINE
DRAWN:
JW
DESIGNED:
JW
PROJECT NO.:
0406-131-00
REV. NO.:
DRAWING DATE:
02/08/07
AGAD FILE:
131-00 SWPPP
Figure 2A
SITE PLAN
CAMPBELL ENVIRONMENTAL GROUP


OUTFALL 001 DRAINAGE
OUTFALL 005 DRAINAGE
YARD OUTFALL 1 DRAINAGE
YARD OUTFALL 2 DRAINAGE
SOUTHEAST OUTFALL DRAINAGE
COAL PILE OUTFALL DRAINAGE
SURFACE FLOW DIRECTION
O/W SEP. OIL WATER SEPARATOR
SCALE IN FEET
0
200
400
CLIENT:
SPRAGUE ENERGY CORPORATION
LOCATION:
SPRAGUE ENERGY
SEARSPORT, MAINE
PM:
JW
DETAILED:
JW
PROJECT NO.:
0406-131-00
REV. NO.:
DRAWING DATE:
02/08/07
ACAD FILE:
131-00 SWPPP
Figure 2C
SITE PLAN
CAMPBELL
ENVIRONMENTAL
GROUP
IRVING OIL
BANGOR INVESTMENT
COMPANY
PAD 5


ADDITION
CURRENT
SPRAGUE
FACILITY
OUTFALL
003/004
OUTFALL 001/002

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.