



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

September 2, 2010

Mr. Richard Fickett
138 Park Street
Cherryfield, ME. 04622

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit ME0037249
Maine Waste Discharge License (WDL) Application #W008013-5C-C-R
Final Permit

Dear Mr. Fickett:

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 the permit/license renewal and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "G. Wood".

Gregg Wood
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management

Enc.

cc: William Johnson, DEP/CMRO
Sandy Mojica, USEPA



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

DEPARTMENT ORDER

IN THE MATTER OF

RICHARD L. FICKETT)	MAINE POLLUTANT DISCHARGE
JONESPORT, WASHINGTON COUNTY, ME.)	ELIMINATION SYSTEM PERMIT
OVERBOARD DISCHARGE)	AND
ME0037249)	WASTE DISCHARGE LICENSE
W008013-5C-C-R)	APPROVAL RENEWAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et seq. and Maine Law 38 M.R.S.A. Section 414-A, et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of RICHARD L. FICKETT (permittee hereinafter) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The permittee has filed an application with the Department for the renewal of overboard discharge (OBD) Waste Discharge License (WDL) #W008013-65-A-R which was issued by the Department January 29, 1998 to the Larch Corporation. On April 17, 1998, the WDL was transferred to Richard L. Fickett via Department Order #W008013-65-B-T. The WDL renewal and transfer both expired on January 29, 2008. The 1/29/98 WDL authorized the year-round discharge of up to a daily maximum of 2,000 gallons per day (gpd) of primary treated sanitary waste water to Moosabec Reach, Class SB, in Jonesport, Maine.

PERMIT SUMMARY

- a. Regulatory - On January 12, 2001, the Department received authorization from the EPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permit program and permit #ME0037249 will be utilized as the primary reference number for the permittee's facility.

PERMIT SUMMARY

b. Terms and conditions

This permitting action is similar 1/29/98 licensing action in that it is:

1. Carrying forward the daily maximum flow limitation of 2,000 gpd.

This permitting action is significantly different than the 1/29/98 licensing action in that it is:

2. Establishing a two-year schedule of compliance to eliminate the OBD, or replace or upgrade the existing primary level of treatment to a secondary level of treatment.
3. Establishing monthly average, weekly average and daily maximum technology-based concentration limitations for biochemical oxygen demand (BOD₅) and total suspended solids (TSS).
4. Establishing a requirement for at least 85% removal of BOD and TSS on a monthly basis.
5. Establishing a daily maximum technology based limit for settleable solids.
6. Establishing seasonal bacteria limitations from May 15th –September 30th.
7. Establishing a daily maximum water quality based limitation for total residual chlorine.
8. Increasing the daily maximum pH limit to 6.0 – 9.0 standard units.
9. Establishing a requirement for the permittee to develop and keep current, an Operations and Maintenance (O&M) plan for the waste treatment system and appurtenances.
10. Establishing a requirement for the person who has management responsibility over the treatment facility to hold a Grade I (or higher) operator certification.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated July 30, 2010 and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with State law.
3. The provisions of the State's antidegradation policy, 38 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 met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing water 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 discharges will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S.A., §414-A(1)(D).
5. The overboard discharge system was in continuing existence for the 12 months preceding June 1, 1987.
6. The permittee has submitted information (HHE 200 forms) from a Licensed Site Evaluator stating there is currently no alternative disposal system available.
7. A publicly owned sewer line is not located on or abutting land owned or controlled by the permittee or is not available for the permittee's use.

CONCLUSIONS (cont'd)

8. The discharge is not located within the boundaries of a sanitary district or sewer district.

ACTION

THEREFORE, the Department APPROVES the above noted application of RICHARD L. FICKETT to discharge a daily maximum flow of up to 2,000 gpd

- 1) (through September 30, 2012) primary *or* secondary treated sanitary wastewater on a year-round basis; and
- 2) (October 1, 2012 through expiration) secondary treated sanitary wastewater *only* on a year-round basis.

to Moosabec Reach, Class SB, in Jonesport, 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 becomes effective upon signature and expires at midnight five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: November 30, 2009.

Date of application acceptance: November 30, 2009.

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY
ME0037249 2010 8/31/10

W008013-5C-C-R

SPECIAL CONDITIONS**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. **Beginning upon issuance of this permit and lasting through September 30, 2012**, the permittee is authorized to discharge primary or secondary treated waste water from Outfall #001 to the Moosabec Reach, Class SB. The permittee shall commence the monitoring specified below once a secondary level of treatment is installed.
2. **Beginning October 1, 2012**, the permittee is authorized to discharge secondary treated sanitary waste water only from Outfall #001 to the Moosabec Reach, Class SB. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾. With the exception of fecal coliform bacteria, all limitations are in effect on a year-round basis but sampling and **submission of monthly Discharge Monitoring Reports (DMRs) is only required between MAY 1st – SEPTEMBER 30th of each year.**

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	---	---	2,000 gpd [07]	---	---	---	1/Month [01/30]	Metered [MS]
BOD₅ [00310]	1.0 lbs/day [26]	1.0 lbs/day [26]	1.0 bs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [GR]
BOD₅ Percent Removal⁽²⁾ [81010]	---	---	---	85% [23]	---	---	---	Calculate [CA]
TSS [00530]	1.0 lbs/day [26]	1.0 lbs/day [26]	1.0 bs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [GR]
TSS Percent Removal⁽²⁾ [81011]	---	---	---	85% [23]	---	---	---	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Month [01/30]	Grab [GR]
Fecal Coliform Bacteria⁽³⁾ [31616] (May 15 – September 30)	---	---	---	15/100 ml ⁽⁴⁾ [13]	---	50/100 ml [13]	1/Month [01/30]	Grab [GR]
Total Residual Chlorine⁽⁵⁾ [50060]	---	---	---	---	---	0.013 mg/L [19]	1/Month [01/30]	Grab [GR]
pH [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	---	---

Footnotes See Page 6 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes

1. **Sampling** – All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Sampling and analysis must be conducted in accordance with; a) methods approved in 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit.

2. **Percent Removal** – The treatment facility shall maintain a minimum of 85 percent removal of both BOD₅ and TSS for all flows receiving secondary treatment. If required to do so, the percent removal shall be calculated based on an assumed influent value of 286 mg/L and measured effluent concentration values.
3. **Bacteria Limits** – Fecal coliform bacteria limits and monitoring requirements are in effect between May 15th and September 30th of each year. The Department reserves the right to require year-round disinfection on a year-round basis to protect the health, safety, and welfare of the public.
4. **Bacteria Reporting** – The monthly average fecal coliform bacteria limitation is a geometric mean limitation and sample results shall be reported as such.

SPECIAL CONDITIONS

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes

5. **Total residual chlorine (TRC)** – Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee shall utilize approved test methods that are capable of bracketing the TRC limitation in this permit.

B. SCHEDULE OF COMPLIANCE

Conditions of licenses, 38 M.R.S.A. § 414-A(2) authorizes the Department to establish a schedule of compliance for final effluent limitations that are based on new or more stringent technology-based treatment requirements. The Department is making a best professional judgment determination that a schedule of compliance may be established for the imposition of the more stringent, technology-based secondary treatment requirements of 06-096 CMR 525. The schedule of compliance may include interim and final dates for attainment of specific standards and must be as short as possible, based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards.

On or before October 1, 2010, (PCS Code 004101) the shall extend the outfall pipe such that there is a minimum of three (3) feet of water over the crown of the pipe at mean low water.

On or before December 31, 2010, (PCS Code 00701) the permittee shall submit to the Department, for review and approval, a proposed plan and schedule to either provide a secondary level of treatment of all domestic waste water treated at the facility or to eliminate the discharge through connection to a community wastewater treatment system, installation of a subsurface wastewater disposal system, or other means.

On or before June 1, 2012, (PCS Code 030991) the permittee shall commence construction activities necessary to comply with the final date for attainment of secondary treatment standards.

On or before October 1, 2012, (PCS Code 05699) the permittee shall cease discharge of primary treated wastewater. All domestic wastewater generated by the facility that is conveyed to surface waters for discharge must comply with the secondary treatment requirements specified at 06-096 CMR 525(3)(III).

SPECIAL CONDITIONS

C. ANNUAL DISCHARGE FEES

Pursuant to Maine law, 38 M.R.S.A. §353-B, the permittee is required to pay an applicable annual fee for discharges authorized by this permit. Failure to pay an annual fee within 30 days of the billing date of a license/permit is sufficient grounds for accruing interest charges, penalties or revocation of the license.

D. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharges shall not impart color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsuitable for the designated uses and characteristics ascribed to their class.
4. Notwithstanding specific conditions of this permit, the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

E. DISINFECTION

If chlorination is used as the means of disinfection, an approved chlorine contact tank providing the proper detention time consistent with good engineering practice must be utilized followed by a dechlorination system if the imposed total residual chlorine (TRC) limit cannot be achieved by dissipation in the detention tank. The total residual chlorine in the effluent shall at no time cause any demonstrable harm to aquatic life in the receiving waters. The dose of chlorine applied shall provide a TRC concentration that will effectively reduce fecal coliform bacteria levels to or below those specified in Special Condition A, “*Effluent Limitation and Monitoring Requirements*,” of this permit.

F. TREATMENT PLANT OPERATOR

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

SPECIAL CONDITIONS

G. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on November 13, 2009; 2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

H. NOTIFICATION REQUIREMENT

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

1. Any substantial change or proposed change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change shall include information on:
 - (a) the quality and quantity of 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.

I. SITE EVALUATION FOR TRANSFERRED AND RENEWED PERMITS

The Department may not grant approval for a **permit transfer** if a site evaluation concludes that a non-discharging wastewater disposal system designed in compliance with the Maine Subsurface Waste Water Disposal Rules administered by the Maine Department of Health and Human Services, Division of Environmental Health can be installed as a replacement system for the overboard discharge.

The Department may not grant approval for a **permit renewal** if the site evaluation concludes that a non-discharging wastewater disposal system can be installed as a replacement system for the overboard discharge and the Department has offered the permittee funding for the removal of the discharge.

SPECIAL CONDITIONS

J. OPERATION & MAINTENANCE (O&M) PLAN

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

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan shall be kept on-site at all times and made available to Department and EPA personnel upon request. Within 90 days of completion of new and or substantial upgrades of the waste water treatment facility (excepting the current yet to be completed substantial upgrade), the permittee shall submit the updated O&M Plan to their Department inspector for review and comment.

K. REOPENING OF PERMIT FOR MODIFICATIONS

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

L. MONITORING AND REPORTING

For the period May 1st – September 30th of each year, monitoring results shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department. The DMR are to be postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the Department's compliance inspector (unless otherwise specified) at the following address:

Overboard Discharge Compliance Inspector
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
17 State House Station,
Augusta, Maine 04333-0017

SPECIAL CONDITIONS

M. SEVERABILITY

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

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
WASTE DISCHARGE LICENSE**

FACT SHEET

Date: **July 30, 2010**

MEPDES PERMIT: **ME0037249**
WASTE DISCHARGE LICENSE: **W008013-5C-C-R**

NAME AND ADDRESS OF APPLICANT:

**RICHARD L. FICKETT
138 Park Street
Cherryfield, Maine. 04622**

COUNTY: **Washington County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Main Street
Jonesport, Maine**

RECEIVING WATER / CLASSIFICATION: **Moosabec Reach/Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Richard Fickett
207-546-7800
e-mail: rfickett@mgemaine.com**

1. APPLICATION SUMMARY

- a. Application: Richard L. Fickett (permittee hereinafter) has filed an application with the Department for the renewal of overboard discharge (OBD) Waste Discharge License (WDL) #W008013-65-A-R which was issued by the Department January 29, 1998 to the Larch Corporation. On April 17, 1998, the WDL was transferred to Richard L. Fickett via Department Order #W008013-65-B-T. The WDL renewal and transfer both expired on January 29, 2008. The 1/29/98 WDL authorized the year-round discharge of up to a daily maximum of 2,000 gallons per day (gpd) of primary treated sanitary waste water to Moosabec Reach, Class SB, in Jonesport, Maine. See **Attachment A** of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont'd)

- b. Source description & waste water treatment: Sanitary waste waters are generated by a 13-unit apartment building referred to as the Thomas Kelley Apartments. There are 8 two bedroom apartments, 4 one bedroom apartments and one three bedroom apartment. The waste water currently receives a primary level of treatment via three 1,000 gallon septic tanks followed by chlorine disinfection. The treated effluent is discharged to Moosabec Reach via a single outfall pipe measuring 4 inches in diameter with no diffuser and is exposed at mean low water. The discharge occurs on a year-round basis.
- c. Replacement Options: In May of 2003, the State Legislature adopted several amendments to the licensing of overboard discharges and the Department revised its rule Chapter 596, *Overboard Discharges: Licensing and Abandonment*, accordingly. One of the amendments in the revised rule required OBD owners that were applying to the Department to renew their OBD license, to hire a licensed site evaluator (LSE) to determine whether there is a technologically feasible replacement of the existing system prior to license renewal and install the replacement system within 180 days if grant money is offered by the Department.

The site evaluation performed on November 18, 2009 by a Licensed Site Evaluator concluded that there is not adequate area available on-site to locate a subsurface disposal system without obtaining a variance from the setback requirements from a public drinking water supply.

2. PERMIT SUMMARY

- a. Regulatory - On January 12, 2001, the Department received authorization from the EPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permit program and permit #ME00037249 will be utilized as the primary reference number for the permittee's facility.
- b. History: The most current relevant regulatory actions and or significant events include the following:

January 28, 1998 – The Department issued WDL renewal, transfer and modification #W008013-65-A-R to the Larch Corporation for a ten-year term. Prior to the 1/28/98 licensing action, the discharge from the former Jonesport High School Building was licensed under WDL #WDL W001053-45-A-R.

April 17, 1998 – The Department issued a WDL transfer order #W008013-65-B-T transferring the 1/28/98 WDL from the Larch Corporation to Richard L. Fickett.

2. PERMIT SUMMARY (cont'd)

b. History (cont'd)

January 12, 2001 – The State of Maine received authorization from the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination system (NPDES) permitting program in Maine. From this date forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permit program.

November 30, 2009 – Richard L. Fickett submitted an application to the Department for the renewal of 1/28/98 WDL and subsequent 4/17/98 WDL transfer.

c. Terms and conditions

This permitting action is similar 1/29/98 licensing action in that it is:

1. Carrying forward the daily maximum flow limitation of 2,000 gpd.

This permitting action is significantly different than the 1/29/98 licensing action in that it is:

2. Establishing a two-year schedule of compliance to eliminate the OBD or replace or upgrade the existing primary level of treatment to a secondary level of treatment.
3. Establishing monthly average, weekly average and daily maximum technology-based concentration limitations for biochemical oxygen demand (BOD₅) and total suspended solids (TSS).
4. Establishing a requirement for at least 85% removal of BOD and TSS on a monthly basis.
5. Establishing a daily maximum technology based limit for settleable solids.
6. Establishing seasonal bacteria limitations from May 15th –September 30th.
7. Establishing a daily maximum water quality based limitation for total residual chlorine.
8. Increasing the daily maximum pH limit to 6.0 – 9.0 standard units.
9. Establishing a requirement for the permittee to develop and keep current, an Operations and Maintenance (O&M) plan for the waste treatment system and appurtenances.
10. Establishing a requirement for the person who has management responsibility over the treatment facility to hold a Grade I (or higher) operator certification.

3. CONDITIONS OF PERMIT

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

Historically, the Department considered "best practicable treatment" for discharges from certain overboard discharges (OBDs) like Richard L. Fickett's to consist of primary treatment and disinfection. Best practicable treatment (BPT) was accomplished through the use of a septic tank and chlorine contact chamber. The 1/29/98 WDL contained the following condition:

"If the applicant has not installed an alternative form of waste water disposal by the time the Town of Jonesport has designed and planned to construct waste water treatment facility(s) to serve the area including this facility, the applicant shall agree to connect to the town system when complete or construct a private system resulting in similar or superior waste water treatment within 6 months of the completion date of the town system(s)."

It is noted the Town of Jonesport has not constructed to date, and has no plans to construct a municipally owned waste water treatment facility prior to the issuance of this permit

Pursuant to the requirements of *Overboard discharges: licenses and abandonment*, 06-096 CMR 596 (last amended November 27, 2004), *Criteria and Standards for Waste Discharge Licenses*, 06-096 CMR 524 (effective January 12, 2001) and *Effluent Guidelines and Standards*, 06-096 CMR 525 (effective January 12, 2001), the Department is requiring all OBDs permitted by the Department achieve compliance with the secondary treatment requirements specified at 06-096 CMR 525(3)(III). Special Condition B, *Schedule of Compliance*, of this permit establishes a deadline of October 1, 2012 for the permittee to provide a secondary level of treatment for all waste water generated by the apartment complex.

06-096 CMR 596(6)(B)(2) requires that the licensed discharge volume be limited to the lesser of the volume limit of the previous license or the volume equal to the actual or estimated volume produced by the facility connected to the overboard discharge system during the 12 months prior to June 1, 1987. The estimated waste water volume generated by the 23-bedroom complex is 2,070 GPD according to *Maine Subsurface Waste Water Disposal Rules*, 10-144 CMR 241, Table 501.1. The applicant has certified that the dwelling was used on a year-round basis during the 12 months prior to June 1, 1987. Therefore, the daily maximum permitted flow of 2,000 gpd is being carried forward in this permitting action.

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A. §469(9) classifies Moosabec Reach at the point of discharge as a Class SB waterbody. Maine law, 38 M.R.S.A. §465-B(2) contains the standards for Class SB waterbodies as follows;

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

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

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

5. RECEIVING WATER QUALITY CONDITIONS

The 2008 Integrated Water Quality Monitoring and Assessment Report published by the Department pursuant to Section 305(b) of the Federal Water Pollution Control Act lists Jonesport, Jonesport West (DMR Area #54) in a Category entitled *Category 5-B-1 Estuarine and Marine Waters Impaired Only by Bacteria (TMDL Required)*. Impairment in this context is in regard to the designated use of harvesting of shellfish which is currently prohibited due to overboard discharges and non-point source run-off containing elevated fecal coliform bacteria. See **Attachment B** of this Fact Sheet for a map delineating Area 54. The DMR closes or restricts areas based on ambient water quality data that indicates the area did not meet or marginally met the standards in the National Shellfish Sanitation Program. In addition, DMR closes areas by default in the vicinity of outfall pipes associated with treated sanitary waste water discharges in the event of a failure of the disinfection system. Therefore, Area 54

5. RECEIVING WATER QUALITY CONDITIONS(cont'd)

remains closed as of the date of this permitting action. Compliance with the seasonal fecal coliform bacteria limits in this permitting action will ensure that the discharge from the permittee's facility will not cause or contribute to the shellfish harvesting closure.

The 2008 305(b) report also lists all estuarine and marine waters in a category entitled, *Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants*. The waters are listed as partially supporting fishing (shellfish consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomally. Department rule Chapter 519, *Interim Effluent Limitations and Controls for the Discharge of Mercury*, establishes controls on the discharge of mercury to the surface waters of the State through interim effluent limits and implementation of pollution prevention plans. However, Section 1(A)(1) of the Chapter 519 rule states in part:

"This rule applies to all persons licensed or permitted pursuant to 38 MRSA §413 to discharge pollutants to the surface waters of the State except as described below. For the purposes of this rule, the term licensee also means permittee.

Categorical exclusions. This rule does not apply to the following categories of licensees: combined sewer overflows, snow dumps, pesticide applications, and over board discharges licensed pursuant to 38 MRSA §413.[emphasis added] Except, however, specific members of these categories may be required by the department to comply with this rule on a case by case basis..."

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Best Practicable Treatment (BPT) - Overboard discharges may be permitted only where no technologically proven alternative exists. Overboard discharge treatment systems must be capable of meeting secondary treatment standards as described in CMR Chapter 525, Section 3 and Chapter 596 section 9, unless the Department finds that alternate limits are appropriate. After accepting a renewal application as complete for processing, the Department shall approve an overboard waste discharge license only if all of the following criteria are met.
 - (1) A publicly owned sewer line is not located on or abutting land owned or controlled by the applicant or is not available for the applicant's use.
 - (2) A subsurface wastewater disposal system cannot be installed in compliance with the Subsurface Rules, 10-144 CMR 241, on land owned or controlled by the applicant. Or, a subsurface wastewater disposal system can be installed on land owned or controlled by the applicant and the applicant is eligible for grant funding pursuant to 38 M.R.S.A § 411-A but no funding is available.
 - (3) The discharge is not located within the boundaries of a sanitary or sewer district and the district has not agreed to service and maintain a holding tank at an annual fee that does not exceed those fees charged to other similar users of the district's services who are physically connected to the sewers of the district.

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

- (4) For a school, the volume or quantity of waste water that is discharged does not exceed;
 - (a) the limit imposed by the previous license.
 - (b) the actual or estimated flow at the time of current application if a license volume increase is necessary.
- (5) The receiving water is not:
 - (a) A Class GPA, AA, A, or SA water;
 - (b) A tributary to Class GPA water; or
 - (c) A waterbody with a drainage area of less than 10 square miles,
- (6) The discharge meets the requirements of *Maine's Pollution Control Laws* 38 M.R.S.A. §414-A, and *Maine's Water Classification Laws* 38 M.R.S.A. §§ 464 to 469.
- (7) The discharge receives best practicable treatment consistent with requirements in Section 9 of Department rule Chapter 596.

Chapter 596, *Overboard Discharges: Licensing and Abandonment*, §9, *Best Practicable Treatment for Overboard Discharges* states;

Best practicable treatment must be determined by the process defined in the Department's *Criteria and Standards for Waste Discharge Licenses*, 06-096 CMR 524 unless specifically defined in the *Effluent Guidelines and Standards*, 06-096 CMR 525 or this section.

A. Treatment Requirements for Combined Blackwater and Graywater Discharges. All overboard discharge wastewater must receive best practicable treatment as follows.

- (1) A non-discharging wastewater disposal system designed and installed in compliance with the Subsurface Rules, 10-144 CMR 241, or connection to a publicly owned sewage collection and treatment system.
- (2) A holding tank, where Section 9, Paragraph (A)(1), of this chapter is not feasible, and the facility is a seasonal residential overboard discharge located on the mainland or an island connected by vehicle bridge or scheduled car ferry service as long as the discharge's removal, alone or in conjunction with other discharges would result in the opening of a shellfish harvesting area.

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

- (3) Where Section 9, Paragraph (A)(1) of this chapter has been demonstrated not feasible and the conditions described in Paragraph 2 and 4 of this subsection are not applicable, a septic tank followed by treatment in a sand filter bed followed by disinfection is deemed best practicable treatment. The sand filter must be of a Department approved design and must be sized to provide a minimum treatment area of one gallon per square foot per day.[emphasis added]
- (4) Where kitchen waste water or similar effluents containing a significant quantity of oil or grease are discharged, or where small property lot sizes will not accommodate the installation of a sand filter, a mechanical treatment system using an aeration and settling process followed by disinfection shall be deemed best practicable treatment. The licensee must maintain a service contract with a person certified pursuant to 06-096 CMR 517 of the Department's Rules.

The permittee has submitted a copy of a HHE-200 form prepared by a LSE dated 11/18/09 based on a site evaluations conducted on 9/22/89 and 11/10/09. The LSE determined that "Soils are excellent, however no subsurface disposal area is possible due to the required setbacks from the public water wells on site."

As of the date of this permitting action, the discharge only receives a primary level of treatment. Special Condition B, *Compliance Schedule*, of this permit requires elimination of the discharge by installing a sub-surface waste water disposal system (via seeking a variance from the public water supply setback) or complete the construction of secondary treatment system on or before October 1, 2012.

- b. Flow: The previous licensing action established a daily maximum discharge flow limitation of 2,000 gallons per day (gpd) that is being carried forward in this permitting action. This permitting action is different than the previous licensing action in that it contains a requirement to meter the flow on a 1/Month basis to verify the permittee is in compliance with said limitation.
- c. Dilution Factors – Department rule 06-096 CMR, Chapter 530, Surface Water Toxics Control Program, §4(A)(2) states,

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

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

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

- (b) *For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.*
- (c) *In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor.*

With a permitted flow of 2,000 gpd, the location and configuration of the existing outfall outfall structure (exposed at mean low water, the Department has made a best professional judgment that dilution factors are as follows:

Acute = 1:1 Chronic = 75 Harmonic mean = 225⁽¹⁾

(1) Pursuant to Department rule Chapter 530, "Surface Water Toxics Control Program", §4(2)(c), the harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by a factor of three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication "Technical Support Document for Water Quality-based Toxics Control" (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

- d. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS): The previous licensing action did not establish any limitations for BOD and TSS. This permitting action is establishing technology-based monthly average and daily maximum BOD₅ and TSS concentration limits of 30 mg/L and 50 mg/L, respectively along with a monitoring frequency of 1/Month. The monthly average concentration limit is based on secondary treatment requirements as defined in Department rule, 06-096 CMR Chapter 525(3)(III) and the daily maximum concentration limit of 50 mg/L is based on a best professional judgment by the Department of best practicable treatment (BPT). This permitting action is also establishing a weekly average technology-based concentration limit of 45 mg/L based on secondary treatment requirements as defined in Department rule, 06-096 CMR Chapter 525(3)(III).

Department rule Chapter 523, *Waste Discharge License Conditions*, Section 6, *Calculating NPDES permit conditions*, sub-section f(1) states that, "all pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass...."

Therefore, this permitting action is establishing monthly average, weekly average and daily

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

maximum BOD₅ and TSS mass limitations based on calculations using the daily maximum permitted flow limitation for the facility of 2,000 gpd (0.0020 MGD) and the applicable concentration limits as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.0020 \text{ MGD}) = 1.0 \text{ lbs/day}$

Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs./day})(0.0020 \text{ MGD}) = 1.0 \text{ bs/day}$

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs./day})(0.00200 \text{ MGD}) = 1.0 \text{ bs/day}$

This permitting action is also establishing a new requirement for a minimum of 85% removal of BOD₅ and TSS pursuant to Chapter 525(3)(III)(a)(3) and (b)(3) of the Department's rules.

- e. Settleable Solids: The previous licensing action did not establish limitations for settleable solids. This permitting action is establishing a daily maximum concentration limit of 0.3 ml/L with a monitoring frequency of 1/Month to be consistent with the monitoring frequency of 1/Month for BOD and TSS to be consistent with BPT limits established for all other MEPDES permits issued for like discharge.
- f. Fecal coliform bacteria: The previous licensing action did not establish any limitations for fecal coliform bacteria. This permitting action is establishing a monthly average water quality based limit of 15 colonies/100 ml and increasing the water quality based daily maximum concentration limit from 15 col/100ml to 50 col/100ml to be consistent with the limits associated with the National Shellfish Sanitation Program. The limitations are seasonal (May 15th – September 30th) to be consistent with the time frame established in Maine law 38 M.R.S.A., §465-B(2).
- g. Total Residual Chlorine (TRC): The previous licensing action did not establish any limitations for total residual chlorine. This permitting action is established a water quality based concentration limit of 0.013 mg/L for TRC with a 2/Week monitoring frequency. Limitations on TRC are specified to ensure that ambient water quality standards are maintained at all times of the year and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or BPT-based limit. With dilution factors as determined in section 6(c) of this Fact Sheet, end-of-pipe (EOP) water quality-based concentration thresholds for TRC may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors		Calculated	
				Acute Limit	Chronic Limit
0.013 mg/L	0.0075 mg/L	1:1 (A)	75:1 (C)	0.013 mg/L	0.56 mg/L

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

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that need to dechlorinate the discharge in order to meet water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. The calculated acute water quality based limitation of 0.013 mg/L is more stringent than any of the Department's technology based limitations and is therefore being established as a daily maximum limitation in this permitting action.

- h. pH: The previous licensing action did not establish any limitations for pH. This permitting action establishes a pH range limit of 6.0 – 9.0 standard units (SU), pursuant to Department rule found at Chapter 525(3)(III)(c), and is considered BPT for secondary treated wastewater. This permitting action is not establishing a regular monitoring frequency to determine compliance but the limitations are in effect and enforceable at all times.
- i. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: Maine law, 38 M.R.S.A., §414-A and §420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* (toxics rule) sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

Chapter 530 Section (2)(A) specifies the dischargers subject to the rule as, “...*all licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedences of narrative or numerical water quality criteria.*”

Chapter 530 Section 2.A specifies the criteria for exemption of certain discharges from toxics testing as follows:

- (1) *Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility;*
- (2) *Discharges from residential overboard discharge systems; or*
- (3) *Discharges from combined sewer overflow discharge points, provided the owner of the sewerage system is conducting or participating in a discharge abatement program.*

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

The permittee's facility is exempt from the Chapter 530 requirements as it is permitted to discharge less than 50,000 gpd, the chronic dilution factor is greater than 50:1 (Department BPJ) and the waste water has domestic-like characteristics. However, should there be a substantial change in the characteristics of the discharge in the future, the Department may reopen this permit pursuant to Special Condition K, *Reopening of Permit for Modifications*, to incorporate the applicable whole effluent toxicity (WET), priority pollutant or analytical testing requirements cited above.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the local newspaper on or about December 1, 2009. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

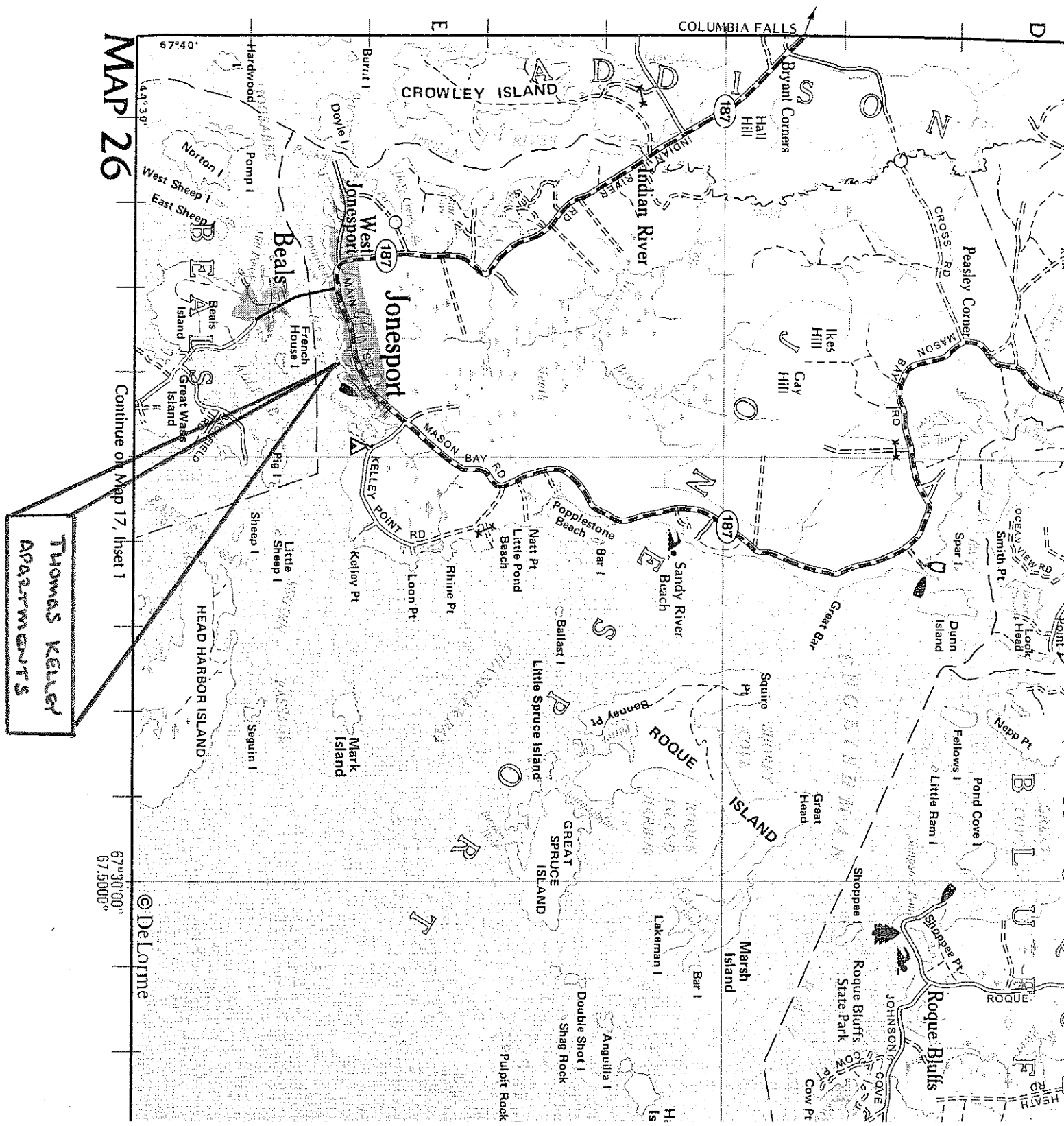
Additional information concerning this permitting action may be obtained from, and written comments sent to:

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

10. RESPONSE TO COMMENTS

During the period of July 29 2010, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

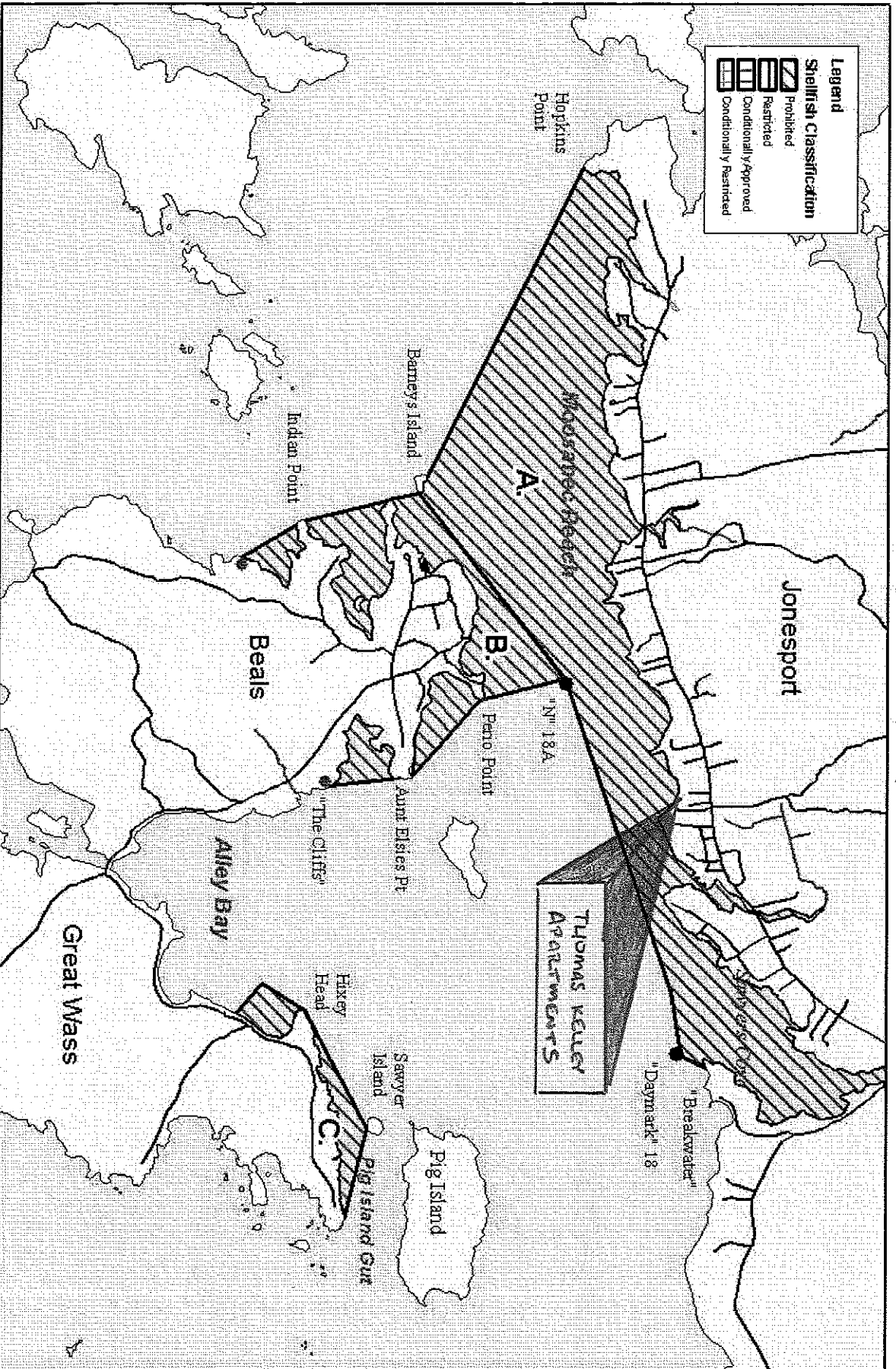
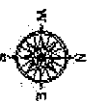
ATTACHMENT A



ATTACHMENT B



Maine Department of Marine Resources
Pollution Closed Area No. 54
Moosabec Reach (Jonesport),
North End of Beals Island (Beals)
Alley Bay-Pig Island Gut (Beals) 5/25/07



APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES
OF LESS THAN 2,000 GALLONS PER DAY

I. GENERAL COMPLIANCE

- A. The licensee shall comply with all terms and conditions of this license. Any noncompliance is a violation of State law and the Clean Water Act and is grounds for enforcement action; for license termination, revocation and reissuance, or modification; or denial of a license renewal application. 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, license, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.
- B. The discharge must be consistent with the terms and conditions of this license. **Changes that increase the estimated discharge volume are prohibited.** Any planned or actual facility modifications that may result in an increased discharge amount or change the discharge characteristics must be reported to the Department of Environmental Protection (hereinafter: the Department). Determinations of volume design flow must be based on the wastewater design flows described in CMR Chapter 241 Section 7, the Subsurface Waste Water Disposal Rules (the "Plumbing Code").

Facility modifications that may increase the volume or otherwise affect the characteristics of the discharge include but are not limited to:

1. Residential sources: The construction of additional bedrooms, bunkhouses or dwellings; the conversion of accessory structures to such uses, the creation of waste discharge connections from mobile homes or recreational vehicles, or an increase in the duration of the discharge beyond that authorized in this license.
2. Commercial sources: Construction or renovations that would increase restaurant seating, room capacity or other modifications or changes of use which could reasonably be expected to result in an increase in discharge volume, duration or characteristic.

Changes that increase the estimated discharge volume are a violation of the terms and conditions of this license and are therefore prohibited. Changes or modifications to discharge characteristics without prior Department approval are also a violation of this license.

- C. The licensee shall grant Department staff right of entry to the regulated wastewater treatment facility at reasonable times. The licensee shall grant staff unobstructed access to the treatment system and appurtenances (its controls, monitoring and testing equipment) for the purposes of verifying compliance, examining records, sampling the effluent, and inspecting the treatment system and appurtenances. Disinfection unit and sampling ports must be accessible at all times.

II. LIMITATIONS OF LICENSE

- A. This license does not preclude obtaining other required Federal, State or Municipal licenses
- B. The licensee shall comply with all Federal Statutes, regulations, and conditions of licenses applicable to its discharge of wastewater, including but not limited to those requiring the installation of pretreatment facilities or establishment of pretreatment programs.
- C. Apart from the installation, maintenance and replacement of the approved or existing treatment system and its appurtenances (waste collection, system controls, monitoring equipment, etc.), this license does not authorize or approve the construction of any facilities or physical structures within the shoreland zone or below the normal high water mark of any waterbody.
- D. This license does not authorize any infringement of any other body of law, be it Federal, State or local, nor does it relieve the licensee from civil or criminal penalties for non-compliance.
- E. The issuance of this license does not convey any property rights, authorize injury to public or private property or infringement upon another's personal rights.

**APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES
OF LESS THAN 2,000 GALLONS PER DAY**

III. TREATMENT

- A. The licensee shall maintain the wastewater treatment system including its appurtenances in good working order and operate the system at maximum efficiency at all times.
- B. The wastewater treatment system including its appurtenances must be installed according to Department specifications and be operational prior to the discharge of wastewater.
- C. The effluent from the wastewater treatment system must not exceed the following limits:

Effluent Characteristic	Discharge Limitations	
	Monthly <u>Average</u>	Daily <u>Maximum</u>
Flow	- - -	as licensed
5-Day Biochemical Oxygen Demand (BOD)	30 mg/L	50 mg/L
Total Suspended Solids (TSS)	30 mg/L	50 mg/L
Settleable Solids	- - -	0.3 ml/L
Fecal coliform Bacteria (for marine, estuarine discharges)	15col/100ml	50 col/100ml
Escherichia coli Bacteria (for freshwater discharges)	Class B: 64 col/100ml Class C: 142 col./100ml	427 col/100 ml 949 col./100 ml
Total Residual Chlorine	1.0 mg/L	
pH	The pH of the effluent shall not be less than 6.0 or greater than 9.0	

- D. Chlorination or ultraviolet units must be used as a means of disinfection. A minimum detention time of 20 minutes in an approved contact chamber must be provided at all times for chlorinators. The total chlorine residual in the effluent must at no time cause any demonstrable harm to aquatic life in the receiving water. The total chlorine residual of the effluent may not exceed 1.0 mg/L at any time.
- E. The final effluent pipe must be placed in the receiving waters in such a manner that mixing and effective dispersion of the wastewater will be achieved and that contact with the effluent will be minimized.
- F. The licensee shall not discharge or cause to be discharged any materials designated as hazardous or toxic under the provision of Section 12, Federal Water Pollution Control Act, as amended, 33 U.S.C. 1162 (1971) or by the Department or which are known by the licensee to be hazardous or toxic.
- G. The discharge must not have a visible oil sheen, contain foam or floating solids.
- H. The discharge may not contain materials in concentrations or combinations that are hazardous or toxic to aquatic life; nor may it cause turbidity or visible discoloration in the receiving waters to exceed control values measured upstream of the discharge point.
- I. Notwithstanding specific conditions of this license the effluent may not lower that water quality standards or impair the uses designated by the classification of the receiving waters.

IV. NONCOMPLIANCE NOTIFICATION

- A. It is the obligation of the licensee to notify Department staff immediately of any malfunction in any component of the wastewater treatment system. In the event the wastewater treatment system malfunctions, the wastewater discharge is to cease within 24 hours unless authorization to the contrary is obtained from the staff of the Department.

**APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES
OF LESS THAN 2,000 GALLONS PER DAY**

V. MONITORING AND REPORTING

- A. The licensee shall operate and maintain the facility in accordance with Department specifications and the terms and conditions of this license. The licensee shall install supplementary monitoring, metering or testing equipment at any time during the operation of the treatment facilities as the Department may reasonably require to ensure compliance with license conditions. Metering, monitoring, testing or sampling equipment must be of a design approved by the Department. Disinfection unit and sampling port covers must be accessible at all times.
- B. The licensee shall complete, sign, certify and submit to the staff of the Department any reports, in such form and containing such information as the Department may require.

VI. LICENSE ADMINISTRATION

- A. The permittee shall maintain this license as current, submitting complete applications with all required exhibits for renewals and/or modifications as may be necessary.
- B. The licensee shall pay an annual fee to the Department for the administration of the Overboard Discharge Program and inspection of the applicant's OBD system. Payment of the fee is due within 30 days of receiving a bill from the Department.
- C. Prior to the transfer the ownership of the property, or the facility thereon, a site evaluation must be performed by a licensed site evaluator with experience in designing systems for the replacement of overboard discharges, if one has not been conducted in the previous five years. Should a practicable alternative be identified by the LSE, that system must be installed within 90 days of transfer, season and weather permitting.
- D. In the event that the named licensee transfers ownership of the facility without application by the new owner and subsequent Department approval of a transfer of the associated license, the license granted by the Department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license, and the parties to the transfer are jointly and severally liable for any violation thereof until such time as the Department approves transfer of issuance of a waste discharge license to the new owner. The Department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.
- E. All wastewater will be consigned to a municipal treatment system when said municipal system becomes available. This waste discharge license will automatically expire 90 days after a municipal facility becomes available unless the Board, in writing, for good cause shown extends this time.
- F. The Department reserves the right to make appropriate revisions to this license in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 M.R.S.A., §414-A(5)

SPECIAL CONDITIONS FOR SAND FILTER SYSTEMS

- S-1. At least three days prior to the construction or replacement of the sand filter, the licensee shall contact the Department staff in order that an inspection of the construction may be made.
- S-2. The licensee shall ensure that the septic tank is pumped at least once every three years and that periodic cleaning of the disinfection unit housing chamber is performed as may be necessary for proper disinfection and discharge of treated sanitary wastewater.

**APPENDIX A - MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD LICENSE CONDITIONS FOR OVERBOARD DISCHARGES
OF LESS THAN 2,000 GALLONS PER DAY**

SPECIAL CONDITIONS FOR MECHANICAL TREATMENT SYSTEMS

- M-1. The licensee shall maintain a service contract for any and all treatment equipment and facilities with a service organization acceptable to the Department. A signed copy of the service contract must be forwarded or presented to the Department staff upon request.
- M-2. A tag, provided by the service contractor, must be attached to the treatment system or displayed near the treatment system in an accessible manner. The tag must show the name of the service contractor, the date of the most recent visit by the service contractor and the initials of the person conducting the service.
- M-3. The installed mechanical system must have an alarm system of a design approved by the Department.

DEFINITIONS - FOR THE PURPOSE OF THIS LICENSE, THE FOLLOWING DEFINITIONS APPLY:

- A. Daily Maximum for Concentration: The maximum value not to be exceeded by any composite or grab samples.
- B. Monthly Average for Concentration: The total discharge by weight during a calendar month divided by the number of tests in the month that the facility was operating. Where less than daily sampling is required by this license, the monthly average discharge shall be determined by the summation of all the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.
- C. Licensee: The person identified in the findings of fact as being granted the license by the Department.
- D. Facility: "Facility" includes the waste discharge system, its appurtenances, and all connected structures that produce wastewater discharge volumes according to this license. Facility shall include unplumbed structures accessory to connected structures (bunkhouses, etc.) which would logically result in an increased discharge volume or change in effluent character.
- E. Sanitary Wastewater: Domestic effluent, having received the licensed level of treatment and disinfection.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

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. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days 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 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 and the applicant a copy of the documents. All 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

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by 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 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 as part of an appeal only when 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 show 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, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information 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.* An applicant proceeding with a project pending the outcome of an appeal 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 initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final 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. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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.
