



STATE OF MAINE
Department of Environmental Protection



Paul R. Lepage
GOVERNOR

Paul Mercer
COMMISSIONER

February 16, 2016

Ms. Janet Anderson - Town Manager
Town of Islesboro
PO Box 76
Islesboro, ME 04848-0076
manager@townofislesboro.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100269
Maine Waste Discharge License (WDL) #W002726-6B-I-R
Final Permit

Dear Ms. Anderson:

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 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 485-2404.

Sincerely,

Irene Saumur
Bureau of Water Quality

Enc.

cc: Beth DeHaas, DEP/CMRO,
Lori Mitchell, DEP/CMRO
Jon Carman, JMC Wastewater
Olga Vergara, USEPA
Sandy Mojica, USEPA
Marelyn Vega, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435

BANGOR
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BANGOR, MAINE 04401
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PORTLAND, MAINE 04103
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PRESQUE ISLE
1255 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF ISLESBORO)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS)	ELIMINATION SYSTEM PERMIT
ISLESBORO, WALDO COUNTY)	AND
ME0100269)	WASTE DISCHARGE LICENSE
W002726-6B-I-R)	RENEWAL
APPROVAL		

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

APPLICATION SUMMARY

The permittee has submitted a timely and complete application to the Department for the renewal of Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System (MEPDES) permit #W002726-6B-E-R (permit hereinafter), which was issued to the licensee on January 20, 2011, for a five-year term. The permit authorized the monthly average discharge of up to 0.0637 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) to the Atlantic Ocean at East Penobscot Bay, Class SB, in Islesboro, Maine.

PERMIT SUMMARY

This permitting action carries forward all terms and conditions of the previous licensing action except;

1. This permitting action incorporates into Special Condition A, the average and maximum concentration limits for mercury, established in the February 2, 2012, permit modification.
2. This permitting action requires the permittee to perform an Industrial Waste Survey at least once every 5 years and submit the results to the Department.
3. This permitting action incorporates the changes made to Total Residual Chlorine limitations, authorized by the *April 2, 2012* Minor Revision, and reduces the monitoring frequency from 3/Week to 2/Week.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated February 16, 2016, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 MRSA Section 464(4)(F), will be met, in that:
 - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - b. Where high quality waters of the State constitute an outstanding 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 discharges will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the above noted application of the TOWN OF ISLESBORO to discharge a monthly average flow of up to 0.0637 MGD of secondary treated sanitary wastewater to the Atlantic Ocean at East Penobscot Bay, Class SB, in Islesboro, Maine. The discharges shall be 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 AGUSTA, MAINE THIS 19th DAY OF February, 2016.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

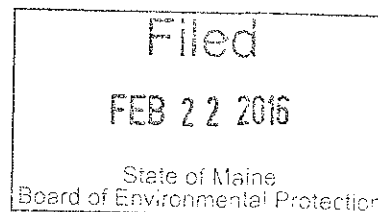
BY: _____

For Paul Mercer, Commissioner

Date of initial receipt of application: December 17, 2015

Date of application acceptance: December 18, 2015

Date filed with Board of Environmental Protection _____



This Order prepared by Irene M. Saumur, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- The permittee is authorized to discharge **secondary treated sanitary wastewater from Outfall #001A** to the Atlantic Ocean at East Penobscot Bay. Such discharges shall be limited and monitored by the permittee as specified below:

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>
	as specified	as specified	as specified	as specified	as specified	as specified	as specified	as specified
Flow [50050]	0.0637 MGD [03]	--	Report MGD [03]	--	--	--	3/Week [03/07]	Metered [MT]
BOD ₅ [00310]	16 lbs/day [26]	24 lbs/day [26]	27 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
BOD ₅ Percent Removal ⁽¹⁾ [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
TSS [00530]	16 lbs/day [26]	24 lbs/day [26]	27 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
TSS Percent Removal ⁽¹⁾ [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Fecal Coliform Bacteria May 15 – September 30 [31616]	--	--	--	15/100 mL ⁽³⁾ [13]	--	50/100 mL [13]	2/Month ⁽²⁾ [02/30]	Grab [GR]
Total Residual Chlorine [50060]	--	--	--	---	--	1.0 mg/L [19]	2/Week ⁽⁴⁾ [02/07]	Grab [GR]
pH [00400]	--	--	--	--	--	6.0 – 9.0 SU [12]	1/Week [01/07]	Grab [GR]
Mercury (Total) ⁵ [71900]	---	---	---	9.9 ng/L [3M]	---	14.8 ng/L [3M]	1/Year [01/YR]	Grab [GR]

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

FOOTNOTES: See Page 5 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes:

Monitoring –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 - 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 Health and Human Services. Samples that are sent to another POTW licensed pursuant to Waste discharge licenses, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of Maine Comprehensive and Limited Environmental Laboratory Certification Rules, 10-144 CMR 263 (last amended 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 shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.

1. **Percent Removal** – For secondary treated waste waters, the facility shall maintain a minimum of 85 percent removal of both BOD₅ and TSS. The percent removal shall be calculated based on assumed BOD₅ and TSS influent values of 287 mg/L and actual effluent concentration values.
2. **Bacteria Limits** – Fecal coliform bacteria limits and monitoring requirements are seasonal and apply between May 15 – September 30. The Department reserves the right to require year-round disinfection to protect the health, safety and welfare of the public.
3. **Bacteria Reporting** – The monthly average fecal coliform bacteria limitation is a geometric mean limitation and sample results shall be calculated and reported as such.
4. **TRC Monitoring** –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 limitation. For instances when the chlorine or chlorine-based compounds have not been used for effluent disinfection for an entire reporting period, the permittee shall report "N9" on the monthly electronic Discharge Monitoring Report (eDMR).

SPECIAL CONDITIONS

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

Footnotes: (cont'd)

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

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

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated 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 discharge shall not impart color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsafe for the designated uses and characteristics ascribed to their classification.
4. Notwithstanding specific conditions of this permit, the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

The person in responsible charge of the treatment facility must hold a minimum of a Maine **Grade II** 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

D. LIMITATIONS FOR INDUSTRIAL USERS

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

E. 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 18, 2015; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting*, of this permit.

F. NOTIFICATION REQUIREMENT

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

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and
2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants 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.

SPECIAL CONDITIONS

G. WET WEATHER FLOW MANAGEMENT PLAN

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

Within 90 days of completion of new and or substantial upgrades of the waste water treatment facility, the permittee must submit to the Department for review and approval, a new or revised Wet Weather Management Plan which conforms to Department guidelines for such plans. The revised plan must include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events. **The permittee must review their plan annually** and record any necessary changes to keep the plan up to date.

H. OPERATION & MAINTENANCE (O&M) PLAN

The permittee must maintain a current written comprehensive Operation & Maintenance (O&M) Plan. The plan must provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and systems of transport, 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 must evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the waste water treatment facility to ensure that it is up-to-date. The O&M Plan must be kept on-site at all times and made available to Department and EPA personnel upon request.

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

I. DISPOSAL OF TRANSPORTED WASTE INTO THE WASTEWATER TREATMENT FACILITY

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

SPECIAL CONDITIONS

J. MONITORING AND REPORTING

Monitoring results obtained during the previous month must be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to 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 following address:

Department of Environmental Protection
Central Maine Regional Office
Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333-0017

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory **not later than close of business on the 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.

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 anytime and with notice to the permittee, modify this permit to; 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional effluent and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

L. SEVERABILITY

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

ATTACHMENT A

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ State License # W _____
MEPDES License # _____

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

SAMPLE COLLECTION INFORMATION

Sampling Date: ____ / ____ / ____ Sampling Time: _____ AM / PM
mm dd yy

Sampling Location: _____

Weather Conditions: _____

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

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

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

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

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

Please Enter Effluent Limits for your facility

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

Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. _____

CERTIFICATION

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

By: _____ Date: _____
Title: _____

NOTE: PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

Form DEPLW 0112

December 15, 2009

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

FACT SHEET

February 16, 2016

MEPDES PERMIT: **ME0100269**
WASTE DISCHARGE LICENSE: **W002726-6B-I-R**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF ISLESBORO
P.O. BOX 76
ISLESBORO, ME 04848-0076**

COUNTY: **Waldo**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**DARK HARBOR WASTEWATER TREATMENT FACILITY
524 PENDLETON POINT ROAD
ISLESBORO, ME 04848-0076**

RECEIVING WATER / CLASSIFICATION: **Atlantic Ocean at East Penobscot Bay/Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Janet R. Anderson, Town Manager
(207) 734-2253
manager@townofislesboro.com**

CONTRACT OPERATOR: **Jon Carman, Grade V-B Operator (Maine)
J.M.C. Wastewater
(207) 948-2422
joncarman@uninets.net**

1. APPLICATION SUMMARY

- a. Application: The permittee has submitted a timely and complete application to the Department for the renewal of Waste Discharge License (WDL)/Maine Pollutant Discharge Elimination System (MEPDES) permit #W002726-6B-E-R (permit hereinafter), which was issued to the licensee on January 20, 2011, for a five-year term. The permit authorized the monthly average discharge of up to 0.0637 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) to the Atlantic Ocean at East Penobscot Bay, Class SB, in Islesboro, Maine.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description: The permittee owns and operates a municipal wastewater treatment system located on Pendleton Point Road in Islesboro, Maine, for the treatment of wastewater generated by twenty-nine (29) customers in the Dark Harbor area of the island community. Approximately 50% of the residential dwellings are occupied on a seasonal basis only. The collection system serving the Dark Harbor area was originally constructed in 1908 and consists of approximately 3,400 linear feet of 6-inch and 8-inch diameter vitrified clay pipe. Approximately 2,800 feet of the system serves Main Street and the remaining 600 feet serves Derby Road. The septic tanks, pumping station and sand filters utilized by the permittee were constructed in 1980. The design of the treatment system assumed a maximum build-out of thirty-five (35) dwellings and three (3) commercial establishments, or a total population of 140 people. There are no significant industrial users and no combined sewer overflow points associated with the collection system. The one pump station is equipped with an emergency back-up propane-powered generator. The permittee is not authorized to receive septage. In 2011 the facility completed the installation of a replacement outfall pipe.

Site location maps are included as Fact Sheet **Attachment A**.

- c. Wastewater Treatment: The permittee provides a secondary level of treatment via three (3) 70-foot wide by 100-foot long sand filters. Raw wastewater is conveyed by gravity to three (3) 5,000-gallon septic tanks, which are arranged in series, for primary settling. The septic tanks are pumped every October and the solids are land-applied onto an approved site. Septic tank effluent enters a pumping station where two (2) 100 gallon per minute submersible pumps, one of which was installed in 1980, the other in 2000, convey septic tank effluent via a 4-inch diameter force main to a splitter box. The wastewater flows by gravity from the splitter box to distribution boxes located at the head end of each of three (3) buried sand filters. Under normal conditions, two of the three sand filters are in service at any one time. Once per year, slide gates in the splitter box are set so that one bed is rotated out of service for one year to provide a "resting period" whereby any organic matter clogging the media has a chance to dry out and be biologically oxidized.

Treated wastewater is conveyed to a 490 ft³ structure used as the chlorine contact chamber. Disinfection is achieved using sodium hypochlorite tablets. The final effluent is then conveyed to another manhole and finally to the Atlantic Ocean at East Penobscot Bay via an 8-inch diameter gravity outfall pipe. Astronomical high tides, coupled with high flows, have at times created effluent backup conditions in the chlorine contact chamber. The previous permitting action stated that the permittee was seeking bids for the redesign and installation of a replacement outfall pipe. The replacement outfall pipe project was completed in 2011.

2. PERMIT SUMMARY

a. Terms & Conditions: This permitting action carried forward all terms and conditions of the previous permitting action except;

1. This permitting action incorporates into Special Condition A, the average and maximum concentration limits for mercury, established in the February 2, 2012, permit modification.
2. This permitting action requires the permittee to perform an Industrial Waste Survey at least once every 5 years and submit the results to the Department.
3. This permitting action incorporates the changes made to Total Residual Chlorine limitations, authorized by the *April 2, 2012* Minor Revision, and reduces the monitoring frequency from 3/Week to 2/Week.

b. Facility History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the permittee.

April 30, 1986 – The USEPA issued NPDES permit #ME0100269 to the Town for the discharge of secondary treated sanitary wastewater to Penobscot Bay in the Atlantic Ocean. The 4/30/86 NPDES permit expired on April 30, 1991.

April 17, 1991 – The USEPA issued a letter to the Town informing them that their reapplication for a NPDES permit had been reviewed and appeared to be complete for processing. As of the effective date of this permitting action, the USEPA had not issued a final renewal permit for the Town's Dark Harbor facility.

March 6, 1992 – The Department issued WDL #W002726-5L-C-R to the Town for the discharge of secondary treated sanitary wastewater from the Dark Harbor wastewater treatment facility to Penobscot Bay.

Spring 1994 – As required by WDL #W002726-58-B-R issued on March 6, 1992, the Town conducted an internal sewer system evaluation and limited work was performed to clean and remove roots, excavate manholes, and remove sources of inflow and infiltration (I/I). The Department documented in WDL W#002726-5L-C-R issued on August 8, 2000 that I/I into the wastewater treatment system had not been materially reduced.

November 6, 1997 – The Department issued a letter to the Town thereby administratively modifying WDL #W002726-58-B-R to revise the daily maximum concentration limit for fecal coliform bacteria from 15 colonies/100 ml to 50 colonies/100 ml and to establish a monthly average concentration limit of 15 colonies/100 ml to be consistent with National Shellfish Sanitation Program standards.

June 9, 2000 – The Maine Department of Marine Resources (DMR) provided the Department with a memorandum in support of seasonal rather than continuous effluent disinfection for the Town's Dark Harbor facility.

August 8, 2000 – The Department issued WDL #W002726-5L-C-R to the Town of Islesboro, for a five year term. The 8/8/00 WDL established separate "summer season" and "winter season" effluent discharge limitations.

2. PERMIT SUMMARY (cont'd)

November 21, 2005 – The Department issued WDL #W002726-5L-D-R/MEPDES #ME0100269 for a five-year term.

January 20, 2011 – The Department issued WDL #W002726-6B-E-R/MEPDES #ME0100269 for a five-year term.

January 11, 2012 – The Department initiated and issued administrative modification #W002726-6B-F-M, in order to modify the permittee's disinfection requirement, which was originally based on a May 31, 2011, completion date of the permittee's outfall pipe installation and replacement project.

February 6, 2012 – The Department initiated and issued administrative modification #W002726-6B-H-M, that reduced the monitoring frequency for total mercury from 2/Year to 1/Year.

April 2, 2012 - The Department initiated and issued administrative modification #W002726-6B-G-M, to modify the permittee's effluent limitations for total residual chlorine in response to new information concerning the permittee's outfall pipe installation and replacement project.

November 17, 2015– The permittee submitted a timely and complete application for the renewal of WDL #W002726-6B-E-R / MEPDES #ME0100269. The application was accepted as complete for processing on November 18, 2015 and assigned WDL# W002726-6B-I-R.

3. CONDITIONS OF PERMIT

Conditions of Licenses, 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, *Certain Deposits and Discharges Prohibited*, 38 M.R.S.A. Section 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530, require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584, and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of Major River Basins, 38 M.R.S.A. §469 classifies all estuarine and marine waters lying within the boundaries of the State and which are not otherwise classified, which includes the Atlantic Ocean at East Penobscot Bay, as Class SB waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A. §465-B(2), describes the standards for Class SB waters.

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 State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the marine waters at the permittee's outfall (Waterbody #722-27) as, "Category 2: Estuarine and Marine Waters Attaining Some Designated Uses – Insufficient Information for Other Uses." The report lists overboard discharges, boats and septic system problems as the causes for nonattainment. Attainment in this context is in regard to the designated use of the harvesting of shellfish. Currently, the Maine Department of Marine Resources' shellfish harvesting area #36F (Islesboro) is closed for shellfish harvesting. The shellfish closure area is identified on the map included as **Attachment B** of this Fact Sheet.

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

In addition, all estuarine and marine waters of the State are listed as, "*Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants.*" Impairment in this context refers to the estuarine and marine waters partially supporting the designated use of fishing and harvesting of shellfish due to elevated levels of mercury, PCBs, dioxin, and other persistent bio accumulating substances in tissues of some fish and in lobster tomalley. Pursuant to Maine law, 38 M.R.S.A. §420(1-B)(B), "*a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11.*" The Department has established interim monthly average and daily maximum mercury concentration limits for this facility and the facility has been in compliance with said limits. See the discussion in section 6(j) of this Fact Sheet.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: This permitting action is carrying forward a monthly average discharge flow limitation of 0.0637 MGD and a minimum monitoring requirement of three times per week (3/Week).

A summary of discharge flow data as reported on the monthly Discharge Monitoring Reports (DMRs) submitted to the Department for the period February 2011 – September 2015 (# DMRs = 56) indicates the monthly average discharge flow ranged from 0.01 MGD to 0.06 MGD with an arithmetic mean of 0.022 MGD.

- b. Dilution Factors: 06-096 CMR Chapter 530(D)(3)(b) states that, "*for discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE or CORMIX.*"

Based on the location and configuration of the existing outfall pipe, the Department has determined the dilution factors associated with the discharge from the permittee are as follows:

Acute = 94:1

Chronic = 974:1

Harmonic Mean⁽¹⁾ = 2,922:1

Footnote:

- (1) The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the U.S. EPA 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.

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

- c. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS): This permitting action is carrying forward monthly and weekly average BOD₅ and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L, respectively, that are based on secondary treatment requirements as defined in *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III)(effective January 12, 2001). This permitting action is carrying forward daily maximum BOD₅ and TSS concentration limits of 50 mg/L based on a Department best professional judgment (BPJ) of BPT.

The mass limits were derived as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs/gallon})(0.0637 \text{ MGD}) = 16 \text{ lbs/day}$
Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs/gallon})(0.0637 \text{ MGD}) = 24 \text{ lbs/day}$
Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs/gallon})(0.0637 \text{ MGD}) = 27 \text{ lbs/day}$

This permitting action is carrying forward the requirements for the permittee to achieve a monthly average of 85% removal for BOD₅ and TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3). A review of the permittee's BOD₅ and TSS DMR data for the period February 2011 – September 2015 indicate the permittee's monthly average BOD₅ and TSS percent removal ranged from 98% to 99%.

This permitting action is carrying forward the "grab" sampling requirements for effluent BOD₅ and TSS.

The permittee does not have an influent sampling location that is representative of raw wastewater conditions. Raw wastewater enters three separate septic tanks before the waste stream is combined in the influent pump station chamber. According to the high-end range of values found in USEPA's *Onsite Wastewater Treatment Systems Manual*, dated February 2002, table 3-7 entitled, "Constituent Mass Loadings and Concentrations in Typical Residential Wastewater," influent values for BOD₅ and TSS may be assumed to be 287 mg/L. for the purpose of calculating the monthly percent removal values until such time that the infrastructure is modified or replaced such that collection of a representative raw influent sample is practical.

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

A review of the DMR data for the period February 2011 – September 2015 indicates the monthly average and daily maximum mass and concentration values have been reported as follows:

BOD₅ Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	16	0 – 1	0.3	56	100%
Daily Maximum	27	0 – 1.4	0.5	56	100%

BOD₅ Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	<2 – 4.3	<2.0	56	100%
Daily Maximum	50	<2 – 6.5	<2.0	56	100%

TSS mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	16	0 - 2	0.4	56	100%
Daily Maximum	27	0.1 – 3	0.6	56	100%

TSS concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	2 - 5	<2.9	56	100%
Daily Maximum	50	0.1 – 3	<3.1	56	100%

Minimum monitoring frequency requirements in MEPDES permits are prescribed by 06-096 CMR Chapter 523§5(i). The USEPA has published guidance entitled, *Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies* (USEPA Guidance April 1996). In addition, the Department has supplemented the EPA guidance with its own guidance entitled, *Performance Based Reduction of Monitoring Frequencies - Modification of EPA Guidance Released April 1996* (Maine DEP May 22, 2014). Both documents are being utilized to evaluate the compliance history for each parameter regulated by the previous permit to determine if a reduction in the monitoring frequencies is justified.

Although EPA's 1996 Guidance recommends evaluation of the most current two years of effluent data for a parameter, the Department is considering 56 months of data (February 2011 – September 2015). A review of the mass monitoring data for BOD & TSS indicates the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as 2% for both BOD and TSS.

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

This permitting action is carrying forward a monthly average percent removal requirement of 85 percent for BOD₅ and TSS as required pursuant to 06-096 CMR 525(3)(III)(a&b)(3) for all flows receiving secondary treatment. A review of the DMR data for the period February 2011 – September 2015 indicates the monthly average values have been reported as follows:

BOD % removal

Value	Limit (%)	Range (%)	Number of DMRs	Compliance
Monthly Average	85	98 – 99	56	100%

TSS % removal

Value	Limit (%)	Range (%)	Number of DMRs	Compliance
Monthly Average	85	98 – 99	56	100%

- e. Fecal Coliform Bacteria: This permitting action is carrying forward the fecal coliform monthly average (geometric mean) and daily maximum (instantaneous) water quality-based concentration limits of 15 colonies/100 mL and 50 colonies/100 mL, respectively, which are consistent with the National Shellfish Sanitation Program.

A review of the monthly DMR data for the period February 2011 – September 2015 indicates the monthly average and daily maximum fecal coliform values have been reported as follows:

Fecal coliform bacteria

Value	Limit (#col/100 mL)	Range (#col/100 ml)	Arith. Mean (#col/100 mL)	Number of DMRs	Compliance
Monthly Average	15	1 – 26	7	25	96%
Daily Maximum	50	1 – 70	9	25	96%

The previous permit established a monitoring frequency of 2/Month. Although EPA's 1996 Guidance recommends evaluation of the most current two years of effluent data for a parameter, the Department is considering 56 months of data (February 2011 – September 2015). A review of the mass monitoring data for fecal coliform bacteria indicates the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated at 47% for fecal coliform bacteria.

According to Table I of the EPA Guidance and Department Guidance, a 2/Month monitoring requirement cannot be reduced. Therefore, this permitting action is carrying forwarding the monitoring frequency of 2/Month for fecal coliform bacteria.

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

- f. Total Residual Chlorine (TRC): Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT is being applied to the discharge. Department licensing/permitting actions impose the more stringent of either a water quality-based or BPT limit. This permitting action is carrying forward the end-of-pipe (EOP) water quality-based concentration thresholds based on dilution factors listed in section 6(b) of this Fact Sheet for the permittee.

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	94:1 (A) 974:1 (C)	1.22 mg/L	7.30 mg/L

Example calculation, acute: $(0.013)(94) = 1.22 \text{ mg/L}$

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that must dechlorinate the effluent in order to consistently achieve compliance with 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 daily maximum water quality-based limit of 1.22 mg/L calculated above is less stringent than the BPT-based limit of 1.0 mg/L, therefore, the BPT-based daily maximum TRC limit of 1.0 mg/L is being carried forward in this permitting action.

A review of the DMR data for the period February 2011 – September 2015 indicates the daily maximum and monthly average TRC values have been reported as follows:

Total residual chlorine

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)	Number of DMRs	Compliance
Daily Maximum	1.0	0.0 – 0.98	0.6	21	100%

The previous permit established a monitoring frequency of 3/Week. Although EPA's 1996 Guidance recommends evaluation of the most current two years of effluent data for a parameter, the Department is considering 56 months of data (February 2011 – September 2015). A review of the mass monitoring data for total residual chlorine indicates the ratios (expressed in percent) of the long term effluent average to the daily maximum limit can be calculated at 60%.

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

According to Table I of the EPA Guidance and Department Guidance, a 3/Week monitoring requirement can be reduced to 2/Week. Therefore, this permitting action is reducing the monitoring frequency for total residual chlorine from 3/Week to 2/Week.

- g. pH: Pursuant to Department rule 06-06-96 CMR 525(3)(III)(c), this permitting action is carrying forward the pH range limitation of 6.0 – 9.0 SU, which is considered BPT for secondary treated wastewater. A review of the DMR data for the period February 2011 – September 2015 (#DMRs = 56) showed that the permittee was in compliance with the pH limitations 100% of the time. This permitting action is carrying forward the minimum monitoring frequency requirement of once per week (1/Week) based on the facility's past demonstrated performance with this parameter.
- h. Mercury: Pursuant to *Certain deposits and discharges prohibited*, Maine law, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying W002726-58-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 9.9 parts per trillion (ppt) and 14.8 ppt, respectively, and a minimum monitoring frequency requirement of 2 tests per year for mercury. The interim mercury limits were scheduled to expire on October 1, 2001. However, effective June 15, 2001, the Maine Legislature enacted Maine law, 38 M.R.S.A. §413, sub-§11 specifying that interim mercury limits and monitoring requirements remain in effect.

On February 6, 2012, the Department issued a minor revision of the permit by reducing the monitoring frequency to 1/Year. The mercury effluent limitations and monitoring requirement of 1/Year are being incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of the Department's database for the period December 2010 – May 2013 (Fact Sheet **Attachment C**) indicates mercury test results reported have ranged from .1.0 ppt to 2.35 ppt with an arithmetic mean (number of DMRs = 5) of 1.8 ppt.

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

- i. Total Nitrogen: The USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards in marine waters, namely dissolved oxygen (DO) and marine life support. No facility-specific nitrogen data are available for the permittee and therefore an arithmetic mean value of all secondary treated municipal wastewater effluent for Maine marine discharges is being used. All data used in the calculation of this total nitrogen mean value, 17.2 mg/L (n=140), were compiled from studies coordinated by the Department. For reasonable potential evaluations, the Department considers 17.2 mg/L to be representative of total nitrogen discharge levels from the Islesboro facility.

As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for total nitrogen. According to several studies in EPA's Region I, numeric total nitrogen criteria have been established for relatively few estuaries but the criteria that have been set typically fall between 0.35 mg/L and 0.50 mg/L to protect marine life using dissolved oxygen as the indicator. While the thresholds are site-specific, nitrogen thresholds set for the protection of eelgrass habitat range from 0.30 mg/L to 0.39 mg/L.

Based on studies in EPA Region I and the Department's best professional judgment of thresholds that are protective of Maine water quality standards, the Department is utilizing a threshold of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator, and 0.32 mg/L for the protection of eelgrass in the vicinity of discharge outfalls. Given the absence of known eelgrass in the vicinity of the Islesboro discharge, the Department is using a threshold value of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator.

With the exception of ammonia, nitrogen is not acutely toxic. Therefore, the Department is considering a far-field dilution to be more appropriate when evaluating impacts of total nitrogen to the marine environment. The permittee's facility has a chronic near field dilution of 974:1. Far field dilutions are significantly higher than the near-field dilution, ranging from 100 – 10,000 higher depending on the location of the outfall pipe. With outfalls located in protected coves or small embayments without significant flushing, far field dilution factors would tend to be on the order of 100x the near field dilution. With open ocean discharges, far field dilutions would tend to be between 1,000x – 10,000x the near field dilution. The permittee's facility discharges to the exposed coast adjacent to Dark Harbor, thus the far field dilution would likely be 1,000 times higher than the near field dilution of 974:1. Using the most protective far field dilution multiplier of 1000, the near field dilution factor becomes 974,000:1 in the far field. By this analysis, the increase in the ambient total nitrogen due to the permittee's effluent discharge is as follows:

Estimated total nitrogen concentration in effluent = 17.2 mg/L
Chronic, far field dilution factor = 974,000:1

In-stream concentration after far field dilution: $\frac{17.2\text{mg/L}}{974,000} = 0.000018 \text{ mg/L}$

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

The Department has been collecting ambient total nitrogen data in Maine's marine waters to support development of statewide nutrient criteria for marine waters. For the permittee's facility, the Department calculated a mean background concentration of 0.17 mg/L based on ambient surface water data collected in 2003-2010 from exposed embayments or outer coast on the islands or mainland of Penobscot and Blue Hill Bays. As a result, after reasonable opportunity for far field mixing, the increase in the concentration of total nitrogen in the receiving water due to the discharge from the permittee's facility is not measureable based on typical minimum detection limits of ~0.05 mg/L (i.e. $0.000018 \text{ mg/L} \leq 0.05 \text{ mg/L}$). This concentration is lower than the Department's and EPA's best professional judgment of a critical threshold of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator. Therefore, the Department is making a best professional judgment determination that the discharge of total nitrogen from the permittee's facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters.

8. PUBLIC COMMENTS

Public notice of this application was made in the *Bangor Daily News* on or about November 3, 2015. 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 *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

9. DEPARTMENT CONTACTS

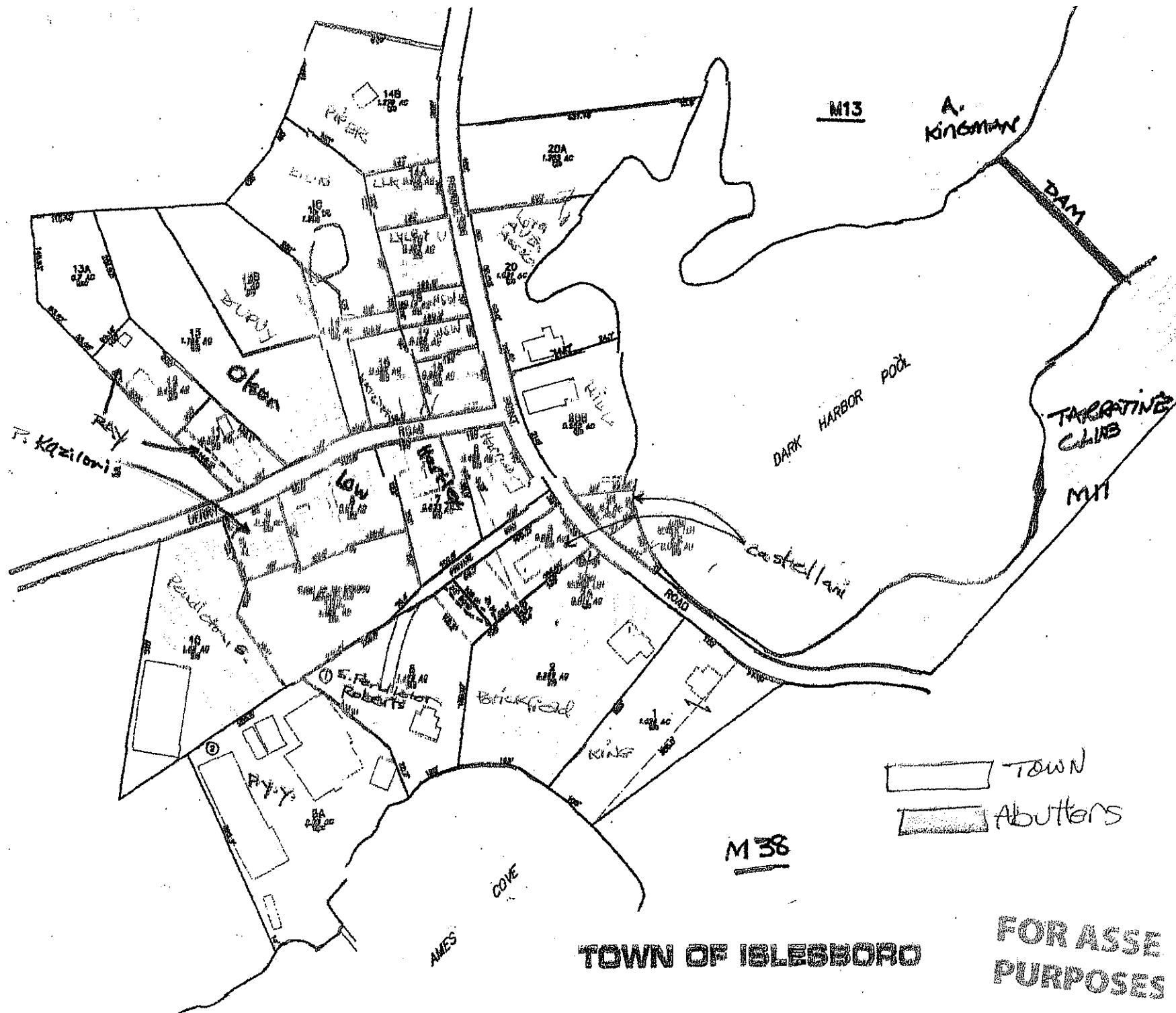
Additional information concerning this permitting action may be obtained from, and written comments sent to:

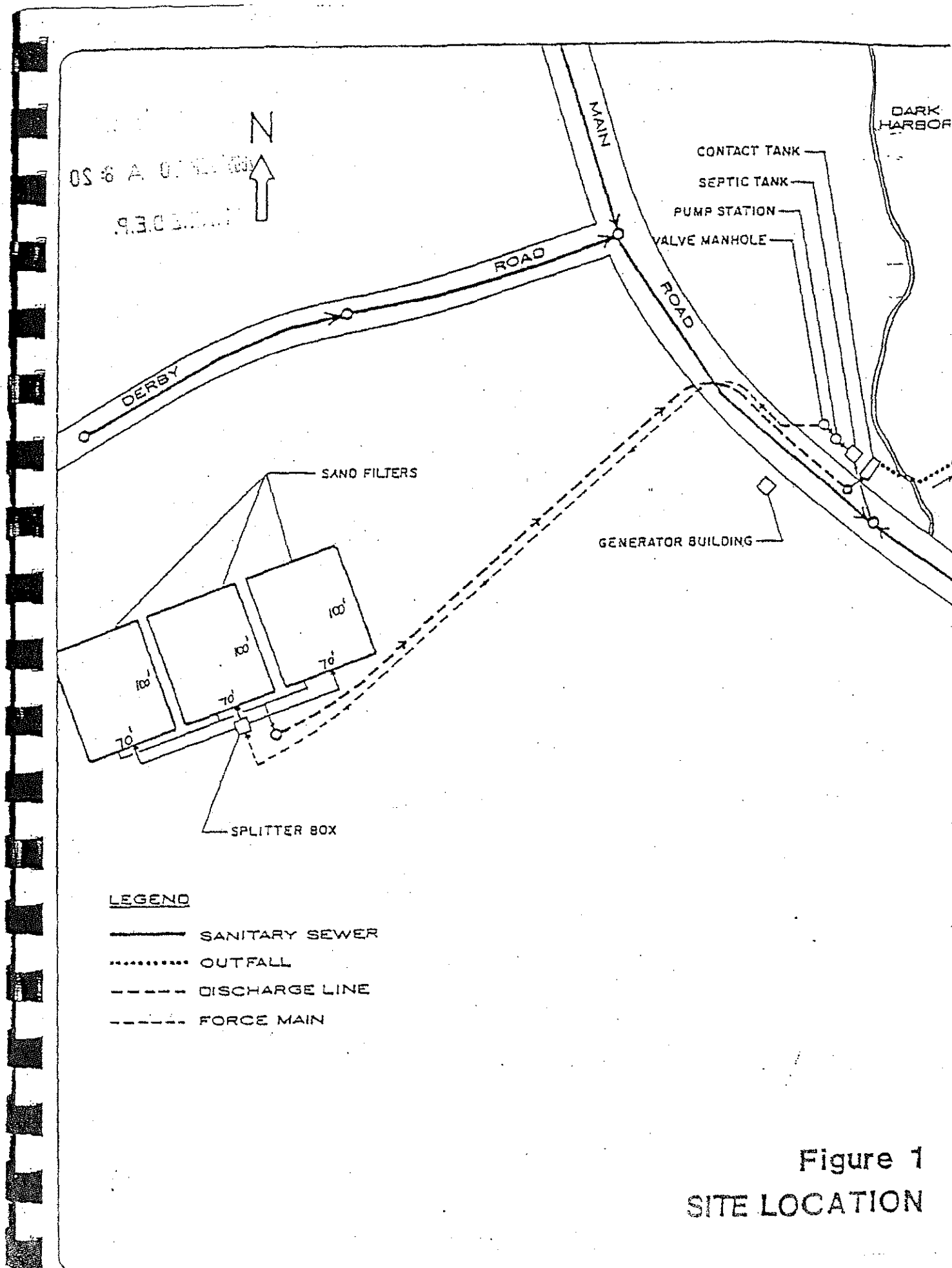
Irene Saumur
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 485-2404 Fax: (207) 287-3435
e-mail: irene.saumur@maine.gov

10. RESPONSE TO COMMENTS

During the period of January 14, 2016, through the issuance of this permit, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to the Town of Islesboro for the proposed discharge. The Department did not receive comments from the permittee, state or federal agencies, or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore the Department has not prepared a Response to Comments. It is noted that minor typographical and grammatical errors identified in comments are not included in this section, but were corrected, where necessary, in the final permit.

ATTACHMENT A





LEGEND

- SANITARY SEWER
- OUTFALL
- DISCHARGE LINE
- FORCE MAIN

Figure 1
SITE LOCATION

ATTACHMENT B



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

PATRICK C. KELIHER
COMMISSIONER

Shellfish Harvesting Area Classification-Notification of Changes

October 7, 2014

Ladies and Gentlemen:

Under the authority of Maine statute 12 M.R.S.A., Chapter 607, Section 6172; the Commissioner has made the following classification changes to Area No. 36-F, Islesboro. This amendment changes the classification from Prohibited to Approved in three areas: Bob's Point south to Grindle Point, Broad Cove and the southwest portion of Islesboro Harbor due to water quality meeting approved standards and an updated shoreline survey. The area of Long Ledge Cove (Islesboro) is reclassified from Prohibited to Restricted due to water quality meeting restricted standards and an updated shoreline survey. All existing pollution and red tide/psp closures remain in effect.

The boundary descriptions of the area are as follows (struck text is being removed and underlined text is being added):

- A. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the following areas:
1. Grindle Point; South and east of a line beginning at the south tip of Grindle Point and running southwest to the USCG N"2" navigational marker, then running east to USCG N"6" navigational marker, then running north to the granite pier on the mainland, locally referred to as Watt's pier.
 2. ~~A. Inside and shoreward of a line drawn west from Bob's Point (at the mouth of Crow Cove) to the south tip of Flat Island; then southeast to the west tip of Grindle Point continuing southeast from the southern tip of Grindle Point to the unnamed point in the southern mouth of Jones Cove (locally known as Mill Cove)~~ East of a line beginning at the southwest tip of Sherman Point then running south to the west shore of Thrumcap, then south to the prominent unnamed west point on Pendleton Point, then to the south tip of Pendleton Point; then AND west of a line beginning at the south tip of Pendleton Point running northeast to Gull Point; then north to Hewes Point, then north to USCG N"2" navigational marker, then west approximately 950 yards to a of land inside Islesboro Harbor. west to the northwest to the southern most prominent point south of Bounty Cove.
 3. ~~B. Inside and north of a line drawn due east from the south tip of Keller Point to a red painted post on the opposite shore. This area is classified as "Restricted" and requires a special MDMR permit.~~
 3. ~~C. Inside and wWest of a line beginning at the south end of Fire Island and extending northeast to the south tip of The Bluffs; AND south of a line beginning at the south tip of~~

The Bluffs and continuing running west to the north tip of the unnamed point at the end of Ryder Cove Lane.

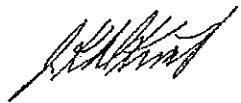
4. ~~D.~~ Seven Hundred Acre Island, inside and south and west of a line drawn southeast across Cradle Cove from the prominent unnamed point on the north side of Cradle Cove to the end of the prominent stone pier on the east point of Cradle Cove.

B. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the following Restricted areas without a special MDMR permit:

1. Seal Harbor: North of a line beginning at the south tip of Keller Point and running east to a red painted post on an unnamed point of land on the opposite shore.
2. Long Ledge Cove: North and east of a line beginning at the west tip of Long Ledge Cove running southeast to the southwest tip of Sherman Point.

If you have questions, please contact Kohl Kanwit, Department of Marine Resources, 194 McKown Point Road, West Boothbay Harbor, Maine 04575-0008, Tel: (207) 633-9535, Email: Kohl.Kanwit@maine.gov. During weekends/holidays, contact the appropriate State Police barracks: from New Hampshire border to Brunswick, barracks 1-800-228-0857; from Cushing/Boothbay to Lincolnville/Belfast area, barracks 1-800-452-4664; from Belfast to Canadian border, barracks 1-800-432-7381. This notice can be viewed on the Department's website at: http://www.maine.gov/dmr/rm/public_health/closures/closedarea.htm. This information is also recorded on our HOTLINE (207-624-7727 OR 1-800-232-4733).

Sincerely,



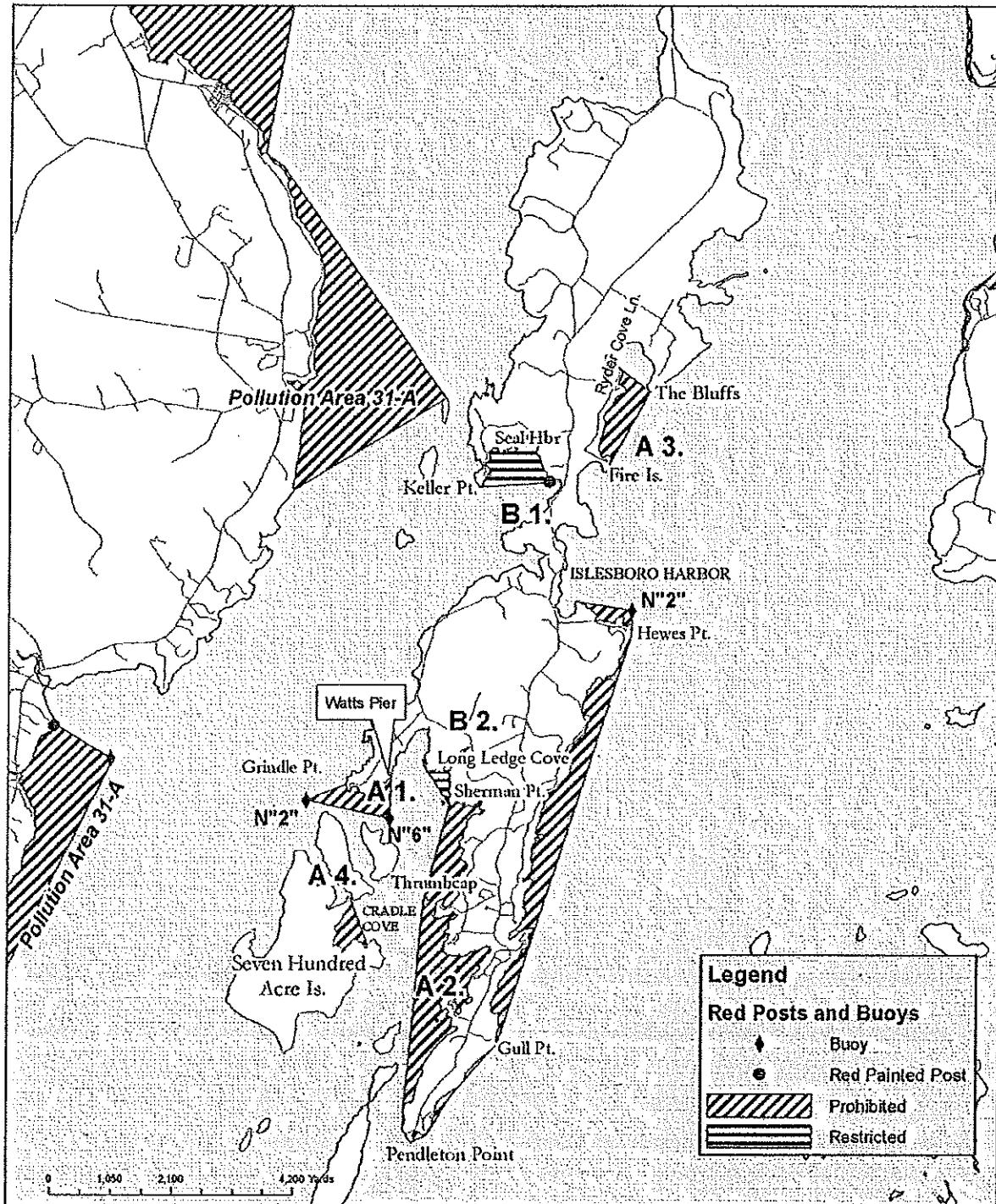
Kohl Kanwit
Commissioner's Designee – Director, Bureau of Public Health

10:31 AM
(Effective Time)

October 7, 2014



Maine Department of Marine Resources
Pollution Closed Area No. 36-F
Islesboro



ATTACHMENT C

11/6/2015

MERCURY REPORT - Clean Test Only

Data Date Range: 06/Nov/2010-06/Nov/2015



Facility: ISLESBORO

Permit Number: ME0100269

Max (ug/l): 0.0054

Average (ug/l): 0.0023

Sample Date	Result (ng/l)	Lsthan	Clean
12/28/2010	1.00	Y	T
06/01/2011	2.00	N	T
12/20/2011	1.43	N	T
12/13/2012	2.24	N	T
05/30/2013	2.35	N	T

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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).

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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 of 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 MAINTENANCE 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

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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.

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- (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.

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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.

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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

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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).

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- (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.

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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 contaminants 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.

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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.

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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.
