#### STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE GOVERNOR



PATRICIA W. AHO COMMISSIONER

December 2, 2014

Mr. Dan Stevens Newport Sanitary District 106 Martin Stream Rd. Newport, Me. 04953 dannsd@myfairpoint.net

# RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100447 Maine Waste Discharge License (WDL) Application #W000865-6C-I-R Permit

Dear Mr. Stevens:

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

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

If you have any questions regarding the matter, please feel free to call me at (207) 446-1875.

Sincerely,

Reday Cone .

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

Enc.

cc: Clarissa Trask, DEP/EMRO Sandy Mojica, USEPA Lori Mitchell, DEP/CMRO

AUGUSTA 17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017 (207) 287-7688 FAX: (207) 287-7826 BANGOR 106 HOGAN ROAD, SUITE 6 BANGOR, MAINE 04401 (207) 941-4570 FAX: (207) 941-4584 PORTLAND 312 CANCO ROAD PORTLAND, MAINE 04103 (207) 822-6300 FAX: (207) 822-6303 PRESQUE ISLE 1235 CENTRAL DRIVE, SKYWAY PARK PRESQUE ISLE, MAINE 04679 (207) 764-0477 FAX: (207) 760-3143



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

# DEPARTMENT ORDER

# IN THE MATTER OF

NEWPORT SANITARY DISTRICT NEWPORT, PENOBSCOT COUNTY, MAINE PUBLICLY OWNED TREATMENT WORKS #ME0100447 #W000865-6C-I-R APPROVAL ) MAINE POLLUTANT DISCHARGE ) ELIMINATION SYSTEM PERMIT ) AND ) WASTE DISCHARGE LICENSE ) RENEWAL

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

# APPLICATION SUMMARY

On April 29, 2014, the Department accepted as complete for processing, a renewal application for Maine Pollutant Discharge Elimination System (MEPDES) #ME0100447 /Waste Discharge License (WDL) #W000865-6C-H-R, which was issued on September 18, 2009 for a five-year term. The 9/18/09 MEPDES permit authorized the monthly average discharge of 0.524 million gallons per day (MGD) of secondary treated municipal wastewaters to the East Branch of the Sebasticook River, Class C, in Newport, Maine.

# PERMIT SUMMARY

# This permitting action is carrying forward all the terms and conditions of the 9/18/09 permitting action, except that it is:

- 1. Eliminating the monthly average, water quality-based effluent concentration and mass limitations for Ammonia, Cadmium and Lead given the results of a current statistical evaluation indicates these parameters no longer exceed or have a reasonable potential to exceed applicable ambient water quality criteria, and;
- 2. Eliminating the option for the facility when calculating percent removal to report the NODI 9 code on the Discharge Monitoring Report (DMR) when the average influent concentration is less than 200 mg/L based on guidance from the U.S. Environmental Protection Agency (EPA).
- 3. Incorporating previously established average and maximum technology based concentration limits for total mercury so the results can be tracked in the federal Integrated Compliance Information System (ICIS).

## PERMIT

# #ME0100447 #W000865-6C-I-R

# CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated December 2, 2014, and subject to the Conditions listed below, the Department makes the following conclusions:

- 1. The discharge, either individually or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
- 2. The discharge, either individually 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, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:
  - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
  - (c) Where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
  - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
- 4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

#### PERMIT

# ACTION

Based on the findings and conclusions as stated above, the Department APPROVES the above noted application of the NEWPORT SANITARY DISTRICT to discharge a monthly average of 0.524 MGD of secondary treated municipal wastewater to the East Branch of the Sebasticook River, Class C, via Outfall #001A in Newport, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

- 1. Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits, revised July 1, 2002, copy attached.
- 2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
- 3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended August 25, 2013)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE THIS 3 DAY OF Decomos 2014

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Michael Kulus BY: IA W. AHO. Commissioner

Date filed with Board of Environmental Protection

	Fi	led					
	DEC	3 2014					
State of Maine Board of Environmental Protection							

Date of initial receipt of application:April 29, 2014Date of application acceptance:April 29, 2014

This Order prepared by Rod Robert, BUREAU OF LAND & WATER QUALITY

# A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge secondary treated municipal waste waters via <u>Outfall #001A</u> to the East Branch of the Sebasticook River. Such discharges shall be limited and monitored by the permittee as specified below<sup>(1)</sup>:

Effluent Characteristic		Minimum Monitoring Requirements						
n	Monthly <u>Average</u>	Weekly <u>Average</u>	Daily <u>Maximum</u>	Monthly <u>Average</u>	Weekly <u>Average</u>	Daily <u>Maximum</u>	Measurement Frequency	Sample <u>Type</u>
	as specified	as specified	as specified	as specified	as specified	as specified	as specified	as specified
Flow [50050]	0.524 MGD [03]		Report MGD [03]				Continuous [99/99]	Recorder [RC]
BOD <sub>5</sub> [00310]	131 lbs./day [26]	197 lbs./day [26]	219 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L <i>[19]</i>	1/Week [01/07]	Composite [24]
BOD <sub>5</sub> Percent Removal <sup>(2)</sup> [81010]				85% [23]			1/Month <i>[01/30]</i>	Calculate [CA]
TSS [00530]	131 lbs./day /267	197 lbs./day [26]	219 lbs./day /267	30 mg/L [19]	45 mg/L /197	50 mg/L <i>[19]</i>	1/Week [01/07]	Composite
TSS Percent Removal <sup>(2)</sup> [81011]		<u> </u>		85% [23]			1/Month <i>[01/30]</i>	Calculate [CA]
<i>E. coli</i> Bacteria <sup>(3)</sup> [31633]				126 col/100 ml <sup>(4)</sup> [13]		949 col/100 ml /137	1/Week [01/07]	Grab /GR]
pH [00400]						6.0-9.0 SU [12]	3/Week [03/07]	Grab [GR]
Copper (Total) <sup>(5)</sup> [01042]		-> co 107	0.06 lbs./day [26]			Report ug/L [28]	1/ Year [01/YR]	Composite [24]
Mercury (Total) <sup>(6)</sup> [71900]				6.8 ng/L	BU BU BU	10.2 ng/L	1/Year	Grab

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

**<u>FOOTNOTES</u>**: See Pages 6-8 of this permit for the applicable footnotes.

PERMIT

# #ME0100447 #W000865-6C-I-R **SPECIAL CONDITIONS**

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

2. Analytical chemistry and priority pollutant testing requirements for <u>Outfall #001A</u><sup>(1)</sup>.

**SURVEILLANCE LEVEL** - Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee shall conduct surveillance level testing as follows:

Effluent Characteristic		Discharge	e Limitations	Minimum Monitoring Requirements		
	Monthly <u>Average</u>	Daily <u>Maximum</u>	Monthly <u>Average</u>	Daily <u>Maximum</u>	Measurement <u>Frequency</u>	<u>Sample</u> <u>Type</u>
Analytical Chemistry <sup>(7)</sup> [51477]				Report ug/L <i>[28]</i>	1/ Year [01/YR]	Composite / Grab [24/GR]

(REDUCED TESTING).

**SCREENING LEVEL** - During the period beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee shall conduct surveillance level testing as follows:

Effluent Characteristic		Discharge	Limitations		Minimum Monitoring Requirements		
	Monthly Average	Daily <u>Maximum</u>	Monthly <u>Average</u>	Daily <u>Maximum</u>	Measurement <u>Frequency</u>	<u>Sample</u> <u>Type</u>	
Analytical Chemistry <sup>(7)</sup> [51477]				Report ug/L [28]	1/ Quarter [01/90]	Composite / Grab [24/GR]	
Priority Pollutant <sup>(8)</sup> [50008]				Report ug/L [28]	1/ Year [01/YR]	Composite / Grab [24/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 Monitori Reports.

**FOOTNOTES:** See Pages 6-8 of this permit for applicable footnotes.

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

## **FOOTNOTES:**

 Sampling – All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process, as to be representative of end-of-pipe effluent characteristics. Any change in sampling location must be approved by the Department in writing. The permittee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a POTW licensed pursuant to Waste discharge licenses, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of Maine Comprehensive and Limited Environmental Laboratory Certification Rules, 10-144 CMR 263 (effective April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.

All analytical test results must be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. See **Attachment A** of this permit for a list of the Department's current RLs. If a non-detect analytical test result is below the respective RL, the concentration result must be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. Percent Removal – The permittee must achieve a minimum of 85 percent removal of both total suspended solids and biochemical oxygen demand for all flows receiving secondary treatment. The percent removal is calculated based on influent and effluent concentration values. During periods of freezing weather, the percent removal may be calculated based on assumed BOD5 and TSS influent values of 286 mg/L and actual effluent concentration values. The treatment facility shall maintain a minimum of 85 percent removal of both BOD<sub>5</sub> and TSS for all flows receiving secondary treatment during all months that the facility discharges. Compliance with the limitation shall be based on a twelve-month rolling influent and twelve-month rolling effluent averages. Calendar monthly percent removal values, as reported in the monthly Discharge Monitoring Report, shall be calculated using the current twelve-month rolling average effluent and twelve-month rolling average calculation is based on the most recent twelve-month period.

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

# **FOOTNOTES:**

- 3. Bacteria Limits *E. coli* bacteria limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to reopen this permit in accordance with Special Condition K, *Reopening of Permit for Modifications*, to establish year-round bacteria limitations to protect the health, safety and welfare of the public.
- 4. Bacteria Reporting The monthly average *E. coli* bacteria limitation is a geometric mean limitation and sample results shall be reported as such.
- 5. Copper Monitoring All analytical test results shall be reported to the Department including results which are detected below the reporting limit (RL) specified by the Department. Compliance with the concentration limit for copper shall be based on the RL of 3.0 μg/L. Effluent monitoring for total copper shall be conducted once per year in a different calendar quarter for the first 4 years then in any quarter in the fifth year.
- 6. 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, <u>Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels</u>. All mercury analyses shall be conducted in accordance with EPA Method 1631E, <u>Determination of Mercury in Water by Oxidation</u>, <u>Purge and Trap</u>, and Cold Vapor Fluorescence Spectrometry. See Attachment B, *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

The limitation in the monthly average column in table Special Condition A of this permit is defined as the arithmetic mean of all the mercury tests ever conducted for the facility utilizing sampling Methods 1669 and analysis Method 1631E.

- 7. Analytical chemistry Refers to a suite of parameters listed in Attachment A of this permit.
  - a. Surveillance-level testing Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee shall conduct analytical chemistry testing at a minimum frequency of once per year.

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

#### FOOTNOTES:

- b. Screening-level testing During the period beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee shall conduct analytical chemistry testing at a minimum frequency of once per calendar quarter for four consecutive calendar quarters.
- 8. **Priority pollutant testing** Refers to a suite of parameters listed in **Attachment A** of this permit.

Screening level testing – During the period beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee shall conduct priority pollutant testing at a minimum frequency of once per year.

Priority pollutant and analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department.

Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedances of the acute, chronic or human health AWQC as established in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005). For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

# **B. NARRATIVE EFFLUENT LIMITATIONS**

- 1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated for the classification of the receiving waters.
- 2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.
- 3. The discharge shall not cause visible discoloration or turbidity in the receiving waters, which would impair the usages designated for the classification of the receiving waters.
- 4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

# C. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a minimum of a **Grade III** certificate (or Registered Maine Professional Engineer) pursuant to *Sewerage Treatment Operators*, 32 M.R.S.A. §§ 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.

# D. LIMITATIONS FOR INDUSTRIAL USERS

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

#### **E. NOTIFICATION REQUIREMENTS**

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

- 1. Any introduction of pollutants into the waste water collection and treatment system from an indirect discharger in a primary industrial category discharging process waste water; and
- 2. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system by a source introducing pollutants to the system at the time of permit issuance.
- 3. For the purposes of this section, adequate notice shall include information on:
  - a. The quality and quantity of waste water introduced to the waste water collection and treatment system; and
  - b. Any anticipated impact of the change in the quantity or quality of the waste water to be discharged from the treatment system.

# F. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only: 1) in accordance with the permittee's General Application for Waste Discharge License, accepted for processing on April 29, 2014; 2) in accordance with the terms and conditions of this permit; and 3) via Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

#### G. WET WEATHER MANAGEMENT PLAN

The treatment facility staff shall maintain a Wet Weather Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall. A specific objective of the plan shall be to maximize the volume of wastewater receiving secondary treatment under all operating conditions. The revised plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures for before, during and after the events.

Once the Wet Weather Management Plan has been approved, the permittee shall review their plan at least annually and record any necessary changes to keep the plan up to date. The Department may require review and update of the plan as it is determined to be necessary.

#### H. OPERATIONS AND MAINTENANCE (O&M) PLAN

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

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the waste water treatment facility to ensure that it is up-to-date. The O&M Plan shall be kept on-site at all times and made available to Department and USEPA personnel upon request.

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

#### I. 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING

By December 31 of each calendar year, the permittee shall provide the Department with a certification describing any of the following that have occurred since the effective date of this permit *[ICIS Code 75305]*: See Attachment \_B\_ of the <u>Fact Sheet</u> of this permit for an acceptable certification form to satisfy this Special Condition.

- (a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;
- (b) Changes in the operation of the treatment works that may increase the toxicity of the discharge; and
- (c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge.

In addition, in the comments section of the certification form, the permittee shall provide the Department with statements describing;

- (d) Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge.
- (e) Increases in the type or volume of hauled wastes accepted by the facility.

The Department reserves the right to reinstate annual (surveillance level) testing or other toxicity testing if new information becomes available that indicates the discharge may cause or have a reasonable potential to cause exceedances of ambient water quality criteria/thresholds.

## J. MONITORING AND REPORTING

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

Department of Environmental Protection Eastern Maine Regional Office Bureau of Land & Water Quality Division of Water Quality Management 106 Hogan Road Bangor, Maine 04401

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

# K. REOPENING OF PERMIT FOR MODIFICATION

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

#### L. SEVERABILITY

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

# ATTACHMENT A

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#### Maine Department of Environmental Protection WET and Chemical Specific Data Report Form

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

	Facility Name			MEPDES # Pipe #	·····	Facility Re	epresentative Signature To the best of my know	owledge this info	mation is true,	accurate and	t complete.
	Licensed Flow (MGD)			Flow for	Day (MGD) <sup>(1)</sup>		Flow Avg. for Me	onth (MGD) <sup>(2)</sup>			
	Chronic dilution factor			Date Samp	le Collected		Date Sam	pie Analyzed	·		
	Human health dilution factor			•				· · ·			
	Criteria type: M(arine) or F(resh)	f			Laboratory Address				Telephone _		
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#### Maine Department of Environmental Protection WET and Chemical Specific Data Report Form This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

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DEPLW 0740-G2014

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Revised April 24, 2014

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

V	ACROLEIN	NA					
V	ACRYLONITRILE	NA					
٧	BENZENE	5					
٧	BROMOFORM	5					
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V	CHLOROBENZENE	6					
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V	CHLOROETHANE	5					
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#### Notes:

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

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

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

(3a) Cyanide, Available (Cyanide Amenable to Chlorination) is not an analytical chemistry parameter, but may be required by certain discharge permits.

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

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

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

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

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

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

# ATTACHMENT B

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Maine Department of Environmental Protection Effluent Mercury Test Report
Name of Facility: Federal Permit # ME Pipe #
Purpose of this test: Initial limit determination Compliance monitoring for: year calendar quarter Supplemental or extra test
SAMPLE COLLECTION INFORMATION
Sampling Date: 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:       Result:       ng/L (PPT)         Date of analysis:       Please Enter Effluent Limits for your facility         Effluent Limits:       Average =ng/L       Maximum =ng/L
Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.
CERTIFICATION
I certifiy that to the best of my knowledge the foregoing information is correct and representative of conditions at the time of sample collection. The sample for mercury was collected and analyzed using EPA Methods 1669 (clean sampling) and 1631 (trace level analysis) in accordance with instructions from the DEP.
By:Date:
Title:

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

DEPLW 0112-B2007, Revised July 2009

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

#### FACT SHEET

#### DATE: **DECEMBER 16, 2014**

MEPDES PERMIT NUMBER: WASTE DISCHARGE LICENSE: ME0100447 W000865-6C-I-R

NAME AND ADDRESS OF APPLICANT:

# NEWPORT SANITARY DISTRICT P.O. BOX 157, 106 MARTIN STREAM ROAD NEWPORT, MAINE 04953

COUNTY: PENOBSCOT

#### NAME AND ADDRESS WHERE DISCHARGE OCCURS:

# NEWPORT SANITARY DISTRICT 106 MARTIN STREAM ROAD NEWPORT, MAINE 04953

# RECEIVING WATER / CLASSIFICATION: EAST BRANCH OF THE SEBASTICOOK RIVER / CLASS C

# COGNIZANT OFFICIAL AND TELEPHONE NUMBER: MR. DANIEL STEVENS dannsd@myfairpoint.net

(207) 368-5129

# 1. APPLICATION SUMMARY

<u>Application</u>: On April 29, 2014, the Department accepted as complete for processing, a renewal application for Maine Pollutant Discharge Elimination System (MEPDES) #ME0100447
 /Waste Discharge License (WDL) #W000865-6C-H-R, which was issued on September 18, 2009 for a five-year term. The 9/18/09 MEPDES permit authorized the year round, monthly average discharge of 0.524 million gallons per day (MGD) of secondary treated municipal wastewaters to the East Branch of the Sebasticook River, Class C, in Newport, Maine .

# 2. PERMIT SUMMARY

- a. <u>Terms and Conditions</u> This permitting action is carrying forward all the terms and conditions of the 9/18/09 permitting action, except that it is:
  - 1. Eliminating the monthly average, water quality-based effluent concentration and mass limitations for Ammonia, Cadmium and Lead given the results of a current statistical evaluation indicates these parameters no longer exceed or have a reasonable potential to exceed applicable ambient water quality criteria, and;
  - 2. Eliminating the option for the facility when calculating percent removal to report the NODI 9 code on the Discharge Monitoring Report (DMR) when the average influent concentration is less than 200 mg/L based on guidance from the U.S. Environmental Protection Agency (EPA).
  - 3. Incorporating previously established average and maximum technology based concentration limits for total mercury so the results can be tracked in the federal Integrated Compliance Information System (ICIS).
- b. <u>History</u>: This section provides a summary of recent, relevant licensing/permitting actions that have been completed for the Newport Sanitary District.

September 2, 1987 – The U.S. Environmental Protection Agency (USEPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0100447 to the District for the discharge of an unspecified quantity of secondary treated sanitary wastewater to the East Branch of the Sebasticook River. This permitting action superseded the previous NPDES permit issued on June 21, 1977.

May 23, 2000 – Pursuant to Certain deposits and discharges prohibited, 38 M.R.S.A. § 420 and Waste discharge licenses, 38 M.R.S.A. § 413 and Interim Effluent Limitations and Controls for the Discharge of Mercury, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a Notice of Interim Limits for the Discharge of Mercury to the permittee thereby administratively modifying WDL #W000865-5L-E-R by establishing interim monthly average and daily maximum effluent concentration limits of 6.8 parts per trillion (ppt) and 10.2 ppt, respectively, and a minimum monitoring frequency requirement of 2 tests per year for mercury. It is noted the limitations have not been incorporated into Special Condition A, Effluent Limitations And Monitoring Requirements, of this permit as limitations and monitoring

# 2. PERMIT SUMMARY (cont'd)

frequencies are regulated separately through 38 M.R.S.A. § 413 and 06-096 CMR 519. However, the interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the MEPDES program, and MEPDES permit #ME0100447 has been utilized as the primary reference number for the Newport Sanitary District.

July 1, 2004 – The Department issued WDL #W000865-5L-F-R / MEPDES permit #ME0100447 to the District for a five-year term. The 7/1/04 permit superseded WDL #W000865-5L-E-R issued on 1/4/99, WDL #W000865-46-D-R issued on 6/18/90, WDL #W00865-47-C-A (an administrative amendment) issued on 4/27/88, WDL #865 issued on 3/28/84 and WDL #865 issued on 1/16/80.

April 10, 2006 – The Department amended the 7/1/04 permit to incorporate testing requirements of 06-096 CMR 530.

July 1, 2009 – The District submitted a timely and complete General Application to the Department for renewal of the 7/1/04 MEPDES permit. The application was accepted for processing on July 1, 2009, and was assigned WDL #W000865-6C-G-R / MEPDES #ME0100447.

September 18, 2009 – The Department issued WDL #W000865-6C-G-R / MEPDES #ME0100447 to the District for a five year term.

**April 29, 2014** - The District submitted a timely and complete General Application to the Department for renewal of the 9/18/09 MEPDES permit. The application was accepted for processing on April 29, 2014, and was assigned WDL #W000865-6C-I-R / MEPDES #ME0100447.

c. <u>Source Description</u>: The Newport Sanitary District is a quasi-municipal wastewater treatment facility located on the Martin Stream Road in Newport, Maine. The facility has been in operation since 1985 and currently serves a population of approximately 560 residential and commercial customers with a total population of approximately 3,000 people. There are no industrial users and no combined sewer overflow (CSO) points associated with the collection system, and the facility is not required to implement a formal pretreatment program. The sewage collection system is 100% separated (storm water and sanitary wastewater) and consists of approximately 14 miles of sewer lines and two pump stations. In the last permitting cycle (2009-2014) the District completed an upgrade on the main pump station and replaced and/or lined approximately 10,000 lineal feet of clay tile line. The District currently receives between 1,500 and 15,000 gallons per month of holding tank waste on a seasonal basis during the months of March through September. A map showing the location of the treatment facility and receiving waters is included as Attachment A of this fact sheet.

# 2. PERMIT SUMMARY (cont'd)

d. Wastewater Treatment: The District provides a secondary level of treatment via a facultative lagoon system operated in series. All sanitary wastewater flows are collected in the District's sewer collection system and conveyed by gravity and the Birch Street pump station through a comminutor located at a pump station on Spring Street in Newport. The screened flow is conveyed to the treatment facility via a 12-inch diameter force main. The flow is conveyed to a 9-foot deep by 6-foot diameter circular grit removal chamber located adjacent to the first treatment lagoon and then to the first and largest of three biological treatment lagoons operated in series. All three lagoons contain diffused aeration to enhance treatment and are lined with an impermeable geotextile liner to prevent infiltration. The first lagoon in series measures approximately 200 feet wide by 420 feet long, and the second and third lagoons measure approximately 150 feet wide by 310 feet long each. All three lagoons are operated at a working depth of approximately 14 feet. The entire lagoon system provides a total detention time of approximately 55 to 80 days and has a total capacity of approximately 28.7 million gallons. The District reported that the detention time of the lagoons allows the facility to discharge effluent on a continuous basis without disinfection and in compliance with the Escherichia coli bacteria effluent limitations. The lagoon system was constructed with a lagoon underdrain collection system designed to capture wastewater in the event of a structural failure of the lagoon liners. The underdrain system is tied into a lagoon perimeter underdrain collection system that is designed to prevent ground water infiltration into the lagoon system. The perimeter underdrain system is tied into the facility's outfall pipe. The District reported that they have no evidence that the lagoon liners have or are failing and do not anticipate wastewater flow entering the underdrain collection system. Further, the District reported that opening a closed valve on the lagoon underdrain system could undermine the integrity of the liners and the valve. Therefore, the Department is not requiring monitoring of the underdrain system at this time on the basis that any substantial discharge of partially treated wastewater from tears in the lagoon liner would be detected through effluent monitoring.

The District completed construction of a 20-foot wide by 80-foot long reed (*Phragmites australis*) bed in the summer of 2002 to assist in the biological decomposition and assimilation of sludge generated by wastewater settling processes. Sludge is pumped from the bottom of each lagoon cell to one of four (4) separate introduction points within the reed bed system. The reed bed was constructed with an underdrain leachate collection system consisting of a geotextile liner, a manhole and a pump system that returns leachate to the first lagoon cell for additional treatment. The District cuts back and burns the vegetative portions of the reed grass during the spring of each year to promote the healthy growth of new plants. A ground water collection system was constructed under the reed bed to prevent infiltration through the reed bed, and ground water entering the collection system is pumped to the first lagoon cell for treatment prior to discharge. The reed bed is surrounded by a six to eight-foot wide covering of crushed rock on three sides and a vegetated (upland grass species) slope on the fourth that is mowed during summer months.

Final effluent flow from the lagoon system is measured using a 6-inch diameter Parshall flume installed at the outlet of the third lagoon cell and all effluent sampling for compliance demonstration is performed at this point.

# 2. PERMIT SUMMARY (cont'd)

Final effluent is conveyed for discharge approximately 2,000 linear feet from the treatment lagoons to a palustrine emergent wetland via a 16-inch diameter outfall pipe identified as Outfall #001A. The District reported that the end of the outfall pipe is submerged during all seasons to a depth of five feet. The wetland serves as a conveyance to the East Branch of the Sebasticook River entering the river as surface flow. During construction of the facility in 1985, a dissipation pool, which now measures approximately 0.25 acres in surface area, was excavated in the wetland immediately off the end of the outfall pipe for the purpose of flow energy reduction and to promote the even distribution of flow into the surrounding vegetated wetland area. The wetland complex is directly associated with the East Branch of the Sebasticook River through ground water and surface water exchanges, and wastewater that is not assimilated within the wetland is expected to enter the river which is located approximately 1,000 linear feet south of the end-of-pipe location.

The District reported that they mechanically remove settled solids from the two grit chambers located at the treatment plant and on Spring Street and dispose of the material by land applying on a portion of the District's 120-acre property.

# 3. CONDITIONS OF PERMITS

*Conditions of licenses*, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A. § 420 and 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 (effective October 9, 2005), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

# 4. RECEIVING WATER QUALITY STANDARDS

*Classification of major river basins*, 38 M.R.S.A. §467(4)(H)(2)(a) classifies the East Branch of the Sebasticook River at the point of discharge as a Class C waterway. The freshwater wetland at the point of discharge is hydrologically connected to the East Branch of the Sebasticook River via surface and ground water flows and is also considered to be a Class C waterbody in lieu of specific water quality standards established for freshwater wetlands. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(4) describes the standards for Class C waters as follows:

A. Class C waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as a habitat for fish and other aquatic life.

# 4. RECEIVING WATER QUALITY STANDARDS (cont'd)

- B. The dissolved oxygen content of Class C water may be not less than 5 parts per million or 60% of saturation, whichever is higher, except that in identified salmonid spawning areas where water quality is sufficient to ensure spawning, egg incubation and survival of early life stages, that water quality sufficient for these purposes must be maintained. In order to provide additional protection for the growth of indigenous fish, the following standards apply.
  - (1) The 30-day average dissolved oxygen criterion of a Class C water is 6.5 parts per million using a temperature of 22 degrees centigrade or the ambient temperature of the water body, whichever is less, if:
    - (a) A license or water quality certificate other than a general permit was issued prior to March 16, 2004 for the Class C water and was not based on a 6.5 parts per million 30day average dissolved oxygen criterion; or
    - (b) A discharge or a hydropower project was in existence on March 16, 2005 and required but did not have a license or water quality certificate other than a general permit for the Class C water.

*This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.* 

(2) In Class C waters not governed by subparagraph (1), dissolved oxygen may not be less than 6.5 parts per million as a 30-day average based upon a temperature of 24 degrees centigrade or the ambient temperature of the water body, whichever is less. This criterion for the water body applies to licenses and water quality certificates issued on or after March 16, 2004.

The department may negotiate and enter into agreements with licensees and water quality certificate holders in order to provide further protection for the growth of indigenous fish. Agreements entered into under this paragraph are enforceable as department orders according to the provisions of sections 347-A to 349.

Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in Class C waters may not exceed a geometric mean of 126 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The board shall adopt rules governing the procedure for designation of spawning areas. Those rules must include provision for periodic review of designated spawning areas and consultation with affected persons prior to designation of a stretch of water as a spawning area.

# 4. RECEIVING WATER QUALITY STANDARDS (cont'd)

C. Discharges to Class C waters may cause some changes to aquatic life, except that the receiving waters must be of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community. This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species.

# 5. RECEIVING WATER QUALITY CONDITIONS

1. The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report, (Report) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists relevant segments of the East Branch of the Sebasticook River as "*Category 5-A: Rivers and Streams Impaired by Pollutants Other Than Those Listed in 5-B Through 5-D (TMDL Required).*" Impairment in this context refers to the dissolved oxygen (DO) criteria for Class C waters. The Report states that the source of the non-attaining dissolved oxygen condition and Total Phosphorus (TP) is eutrophic lake conditions in Sebasticook Lake for which a total maximum daily load has been completed. In the past decade (since approval of lake TMDL in 2001) TP and Chlorophyll levels in the lake have decreased, Secchi disk transparency has increased; expect TP and DO situation in river to improve over time.

2. The 2012 Report also lists the same segment of East Branch of the Sebasticook River as "Category 5-D: Rivers and Streams Impaired by Legacy Pollutants." Impairment in this context refers to the presence of dioxins/furans and polychlorinated biphenyls (PCBs) in some fish tissues. The presence of PCBs has not always been associated with any identifiable source but may be a result of atmospheric deposition and or a legacy of practices that predate the national ban on the use of PCB in 1979.

3. The 2012 Report also lists Maine's fresh waters as "Category 4-A: Rivers and Streams with Impaired Use, TMDL Completed." All freshwaters formerly listed in Category 5-C were moved to Category 4-A (TMDL Completed) in 2008 due to US EPA approval of a Regional Mercury TMDL. Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "Impairment caused by atmospheric deposition of mercury; a regional scale TMDL has been approved. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources." Pursuant to 38 M.R.S.A. § 420(1-B)(B), "a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11." The Department has established interim monthly average and daily maximum mercury concentration limits and reporting requirements for this facility pursuant to 06-096 CMR 519.

# 5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The Department has no information at this time that the discharge from the Newport Sanitary District, as permitted, will cause or contribute to non-attainment of dissolved oxygen standards for Class C waters, contributing to the presence of PCBs or dioxins/furans or the fish consumption advisory due to elevated mercury in fish tissue.

# 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. <u>Flow</u>: The previous permitting action established a year round monthly average discharge flow limitation of 0.524 MGD. The flow limit of 0.524 MGD is based on the average dry weather design criterion. This permitting action is carrying forward the daily maximum discharge flow reporting requirement to assist in compliance evaluations.

A summary of the discharge flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for Outfall #001A for the period June 2009 through June 2014 is as follows:

Discharge Flow	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	0.045 MGD	0.710 MGD	0.3139 MGD	56

b. <u>Dilution Factors</u>: Dilution factors associated with the discharge were derived in accordance with 06-096 CMR 530(4)(A) and were calculated as follows:

Acute: 1Q10 = 3.4 cfs	$\Rightarrow (3.4 \text{ cfs})(0.6464) + 0.524 \text{ MGD} = 5.2:1$ 0.524 MGD
Chronic: 7Q10 = 7.4 cfs	$\Rightarrow (7.4 \text{ cfs})(0.6464) + 0.524 \text{ MGD} = 10.1:1$ 0.524 MGD
Harmonic Mean = 49.1 cfs	$\Rightarrow (49.1 \text{ cfs})(0.6464) + 0.524 \text{ MGD} = 61.6:1$ 0.524 MGD

06-096 CMR 530(4)(B)(1) states - Analyses using numerical acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone and to ensure a zone of passage of at least 3/4 of the cross-sectional area of any stream as required by Chapter 581. Where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design flow, up to and including all of it, as long as the required zone of passage is maintained.

Due to uncertainties of the impacts and available mixing within the wetland, the Department is making a best professional judgment determination to utilize the full 1Q10 stream design flow recognizing that, at least in terms of the river, there is likely additional dilution from the wetland.

c. <u>Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS)</u>: This permitting action is carrying forward, monthly average and weekly average and daily maximum technology-based concentration limits of 30 mg/L and 45 mg/L, respectively, for BOD5 and TSS based on the secondary treatment requirements specified at *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III) (effective January 12, 2001), and a daily maximum concentration limit of 50 mg/L, which is based on a Department best professional judgment of best practicable treatment for secondary treated municipal wastewater. The technology-based monthly average, weekly average and daily maximum mass limits of 131 lbs./day, 197 lbs./day and 219 lbs./day, respectively, established previously, for BOD5 and TSS are also being carried forward in this permitting action.

This permitting action is carrying forward a requirement for a minimum of 85% removal of BOD<sub>5</sub> & TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3) for all flows receiving secondary treatment. Percent removal is based on a rolling average calculation as described in Special Condition A, Footnote #2 of the permit.

A summary of the effluent l	BOD <sub>5</sub> and TSS data as reporte	ed on the DMRs submitted to the
Department for the period J	une 2009 through June 2014 i	s as follows:

BOD <sub>5</sub>	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Arrows	7 lbs./day	86 lbs./day	28 lbs./day	56
Wonthly Average	4 mg/L	18 mg/L	10 mg/L	56
Wealsty Arrows	7 lbs./day	150 lbs./day	45 lbs./day	56
weekly Average	4 mg/L	26 mg/L	13 mg/L	56
Deile Meriman	7 lbs./day	150 lbs./day	45 lbs./day	56
	4 mg/L	26 mg/L	13 mg/L	56

TSS	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Arous	5 lbs./day	62 lbs./day	17 lbs./day	56
Monthly Average	3 mg/L	13 mg/L	6 mg/L	56
Weekly Average	6 lbs./day	96 lbs./day	27 lbs./day	56
	3 mg/L	18 mg/L	8 mg/L	56
Della Manimum	6 lbs./day	96 lbs./day	27 lbs./day	56
	3 mg/L	18 mg/L	8 mg/L	56

This permitting action is carrying forward the minimum monitoring frequency requirement of once per week for  $BOD_5$  and TSS based on Department best professional judgment.

d. <u>Escherichia coli bacteria</u>: The previous permitting action established seasonal (May 15-September 30 of each year) monthly average and daily maximum *E. coli* bacteria concentration limits of 126 colonies/100 ml and 949 colonies/100 ml, respectively. This permitting action is carrying forward these monthly average (geometric mean) and daily maximum limitations for *E. coli* bacteria. Maine Law, 38 M.R.S.A. § 465(4), requires that the *E. coli* bacteria of human and domestic animal origin in Class C waters may not exceed an instantaneous level (daily maximum) of 236 colonies/100 ml. The Department has determined that end-of-pipe limitations for the instantaneous concentration standard of 236 colonies/100 ml will be achieved through available dilution of the effluent with the receiving waters and need not be revised in MEPDES permits for facilities with adequate dilution, such as that for the Newport Sanitary District.

A summary of the *E. coli* bacteria data as reported on the DMRs submitted to the Department for Outfall #001A for the period of June 2009 – June 2014 (applicable months when bacteria limits are in effect only) is as follows:

<i>E. coli</i> bacteria	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	1.6 col / 100 ml	112 col / 100 ml	14.51 col / 100 ml	25
Daily Maximum	2 col / 100 ml	365 col / 100 ml	63.8 col / 100 ml	25

This permitting action is carrying forward a minimum monitoring frequency requirement of once per week for *E. coli* bacteria (during the applicable period) based on best professional judgment.

- e. <u>Total Residual Chlorine (TRC)</u>: The District has determined that treated wastewater does not require disinfection prior to discharge in order to meet the *E. coli* limits established in the permit and does not utilize or stock any chlorine-based compounds at the treatment facility. Therefore, this permitting action is not establishing effluent limitations for TRC. If at any time the District determines that elemental chlorine or chlorine-based compounds must be utilized for effluent disinfection, the Department must be notified in accordance with Special Condition F of the permit, *Notification Requirements*, at which time the Department will evaluate the final effluent TRC levels and establish limits as necessary to ensure compliance with applicable water quality standards.
- f. <u>pH:</u> This permitting action is carrying forward the previously established technology-based pH limit of 6.0 9.0 standard units, which is based on 06-096 CMR 525(3)(III). This permitting action also carries forward the minimum monitoring frequency of three times per week based on a Department best professional judgment.

A summary of pH data as reported on the monthly DMRs for the period of June 2009 through June 2014 (# DMRs = 56) indicates the effluent pH has been in compliance with the pH range limitation 100% of the time.

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

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

WET, priority pollutant and analytical chemistry testing as required by Department rule 06-096 CMR Chapter 530, is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics.

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health AWQC as established in Department rule 06-096 CMR Chapter 584.

Department rule 06-096 CMR Chapter 530 establishes four categories of testing requirements based predominately on the chronic dilution factor. The categories are as follows:

- 1) Level I chronic dilution factor of <20:1.
- 2) Level II chronic dilution factor of  $\geq 20:1$  but < 100:1.
- 3) Level III chronic dilution factor  $\geq$ 100:1 but <500:1 or >500:1 and Q  $\geq$ 1.0 MGD
- 4) Level IV chronic dilution >500:1 and Q  $\leq$ 1.0 MGD

Department rule 06-096 CMR Chapter 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Department rule 06-096 CMR Chapter 530 criteria, the permittee's facility falls into the Level I frequency category as the facility has a chronic dilution factor of <20:1. Department rule 06-096 CMR Chapter 530(1)(D)(1) specifies that routine screening and surveillance level testing requirements are as follows:

**Surveillance level testing** – Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit).

Level	WET Testing	Priority pollutant testing	Analytical chemistry
Ι	2 per year	None required	4 per year

**Screening level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement.

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

A review of the data on file with the Department indicates that to date, the permittee has fulfilled the WET and chemical-specific testing requirements of Department rule 06-096 CMR Chapter 530. See **Attachment C** of this Fact Sheet for dates and test results for chemical specific testing dates and results of pollutants of concern.

Department rule 06-096 CMR Chapter 530 §(3)(E) states "For effluent monitoring data and the variability of the pollutant in the effluent, the Department shall apply the statistical approach in Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.) to data to determine whether water-quality based effluent limits must be included in a waste discharge license. Where it is determined through this approach that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedance of water quality criteria, appropriate water quality-based limits must be established in any licensing action."

Department rule 06-096 CMR Chapter 530 §3 states, "The Department shall establish appropriate discharge prohibitions, effluent limits and monitoring requirements in waste discharge licenses if a discharge contains pollutants that are or may be discharged at levels that cause, have reasonable potential to cause, or contribute to an ambient excursion in excess of a numeric or narrative water quality criteria or that may impair existing or designated uses. The licensee must also control whole effluent toxicity (WET) when discharges cause, have a reasonable potential to cause, or contribute to an ambient excursion above the narrative water quality criteria. "In determining if effluent limits are required, the Department shall consider all information on file and effluent testing conducted during the preceding 60 months. However, testing done in the performance of a Toxicity Reduction Evaluation (TRE) approved by the Department may be excluded from such evaluations."

Department rule 06-096 CMR Chapter 530(D)(3)(c) states in part "Dischargers in Level I may reduce surveillance testing to one WET or specific chemical series per year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)."

#### **WET Evaluation**

Since this discharge is directed into a freshwater wetland adjacent to the East Branch of the Sebasticook River, the Department has previously waived WET testing for the Newport Sanitary District. This permitting action is carrying forward the previous determination to waive WET testing for this facility. The Department does, however, reserve the right to impose WET testing requirements at any time if deemed necessary and appropriate to protect water quality or aquatic life.

#### Analytical chemistry and priority pollutant testing

Department rule 06-096 CMR Chapter 530 §4(C), states "The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions. The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations." The Department has limited information on the background levels of metals in the water column in the East Branch of the Sebasticook River in the vicinity of the permittee's outfall. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

Department rule 06-096 CMR Chapter 530 4(E), states "In allocating assimilative capacity for toxic pollutants, the Department shall hold a portion of the total capacity in an unallocated reserve to allow for new or changed discharges and non-point source contributions. The unallocated reserve must be reviewed and restored as necessary at intervals of not more than five years. The water quality reserve must be not less than 15% of the total assimilative quantity. However, in May 2012, Maine law 38 M.R.S.A. §464, ¶¶ J was enacted which reads as follows, "For the purpose of calculating waste discharge license limits for toxic substances, the department may use any unallocated assimilative capacity that the department has set aside for future growth if the use of that unallocated assimilative capacity would avoid an exceedance of applicable ambient water quality criteria or a determination by the department of a reasonable potential to exceed ambient water quality criteria."

Department rule 06-096 CMR Chapter 530 §(3)(E) states "... that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedance of water quality criteria, appropriate water quality-based limits must be established in any licensing action."

Department rule 06-096 CMR Chapter 530 §4(F) states in part "Where there is more than one discharge into the same fresh or estuarine receiving water or watershed, the Department shall consider the cumulative effects of those discharges when determining the need for and establishment of the level of effluent limits. The Department shall calculate the total allowable discharge quantity for specific pollutants, less the water quality reserve and background concentration, necessary to achieve or maintain water quality criteria at all points of discharge, and in the entire watershed. The total allowable discharge quantity for pollutants must be allocated consistent with the following principles.

Evaluations must be done for individual pollutants of concern in each watershed or segment to assure that water quality criteria are met at all points in the watershed and, if appropriate, within tributaries of a larger river.

The total assimilative capacity, less the water quality reserve and background concentration, may be allocated among the discharges according to the past discharge quantities for each as a percentage of the total quantity of discharges, or another comparable method appropriate for a specific situation and pollutant. Past discharges of pollutants must be determined using the average concentration discharged during the past five years and the facility's licensed flow.

The amount of allowable discharge quantity may be no more than the past discharge quantity calculated using the statistical approach referred to in section 3(E) [Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control"] of the rule, but in no event may allocations cause the water quality reserve amount to fall below the minimum referred to in 4(E) [15% of the total assimilative capacity]. Any difference between the total allowable discharge quantity and that allocated to existing dischargers must be added to the reserve.

On July 30, 2014, the Department conducted a statistical evaluation (Report ID 701) on the most recent 60 months of chemical-specific tests results on file with the Department for the District in accordance with the statistical approach outlined above. The results of the statistical evaluation were compared to 06-096 CMR 584 and the Ambient Water Quality Criteria (AWQC) specified in Appendix A of the rule. Based on the 7/3014 statistical evaluation, the Department has identified that the discharge has:

• on one occasion (test result of 8.1 µg/L on 12/14/11) demonstrated RP to exceed the acute AWQC for copper. See Attachment C of this fact sheet for a summary of priority pollutant test dates and test results for copper.

# Copper (Total)

On July 30, 2014, the Department conducted statistical evaluations based on 15% of the ambient water quality criteria reserve being withheld (Report ID 702) and 0% of the reserve of the criteria being withheld (Report ID #701) to determine if the unallocated assimilative capacity would avoid an exceedance or reasonable potential to exceed applicable ambient water quality criteria for toxic pollutants. Report ID #701 indicates allocating the 15% reserve does avoid a number of reasonable potentials to exceed applicable AWQC for the parameters of concern for dischargers in the Kennebec and or Sebasticook River watersheds. Therefore, the department is utilizing the full 15% of the unallocated assimilative capacity in the statistical evaluation when establishing limits for toxic pollutants in waste discharge licenses for facilities in the Sebasticook River watershed.

Water quality-based concentration and mass limits for total copper may be calculated using the following formulas:

Concentration Limit Formula = [(Dilution Factor)(0.75)(criterion)] + (0.25)(criterion)

Mass Limit Formula =

(Conc. Limit, μg/L)(8.34 lbs./gallon)(flow limit, MGD) 1000 μg/mg

The previous permitting action established daily maximum concentration and mass limits of 12.8  $\mu$ g/L and 0.06 lbs./day, respectively, and monthly average concentration and mass limits of 18.5  $\mu$ g/L and 0.13 lbs./day, respectively, for total copper. End-of-pipe (EOP), water quality-based daily maximum and monthly average concentration and mass limits for copper (total) may be calculated and are being established in this permitting action as follows:

Daily Maximum Conc.	$= [(5.2)(0.9)(3.07 \ \mu g/L)] + (0.1)(3.07 \ \mu g/L)$ = 12.0 + 0.8 = 14.7 \ \mu g/L
Daily Maximum Mass	$= (14.7 \ \mu g/L)(8.34 \ lbs./gallon)(0.524 \ MGD) = 0.06 \ lbs./day$ 1000 \ \mug/mg

This permitting action is carrying forward a minimum monitoring frequency requirement of once per calendar quarter for copper from the 9/18/09 permit based on the default analytical chemistry testing frequency prescribed by 06-096 CMR 530(2)(D) and in consideration of the timing, frequency and severity of test results on file.

The 7/30/14 statistical evaluation indicates that the discharge does not exceed or demonstrate RP for any other pollutants tested. Therefore, this permitting action is:

- eliminating the monthly average concentration and mass limits for ammonia;
- eliminating the monthly average concentration and mass limits for total cadmium;
- eliminating the monthly average concentration and mass limits for total lead; and
- carrying forward the daily maximum mass limits for total copper.

06-096 CMR 530(2)(D)(3)(c) states, in part, "Dischargers in Level I may reduce surveillance testing to one WET or specific chemical series per year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E)." Therefore, this permitting action is carrying forward reduced surveillance level analytical chemistry testing at a minimum frequency of once per year for all parameters except, copper, which must be monitored quarterly. This permitting action is carrying forward the routine screening level priority pollutant and analytical chemistry testing requirements as specified in the table above and 06-096 CMR 530(2)(D).

06-096 CMR 530(2)(D)(4) states, "All dischargers having waived or reduced testing must file statements with the Department on or before December 31 of each year describing the following.

- (a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;
- *(b) Changes in the operation of the treatment works that may increase the toxicity of the discharge; and*
- (c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge."

The 9/18/09 fact sheet discussed above specified that the facility must comply with this annual notification statement to continue reduced surveillance level testing. This permitting action is carrying forward the notification requirement in this permitting action as Special Condition I,  $06-096 \ CMR \ 530(2)(D)(4)$  Statement for Reduced/Waived Toxicity Testing. This permit provides for reconsideration of testing requirements, including the imposition of certain testing, in consideration of the nature of the wastewater discharged, existing wastewater treatment, receiving water characteristics, and results of testing.

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

h. <u>Total Phosphorus</u>: Wetlands are known for their ability to remove and transform nutrients. The discharge from the Newport facility meanders through approximately 1000 linear feet of palustrine scrub-shrub wetland before entering the East Branch of the Sebasticook River. Given that there are no nutrient criteria for wetlands and the distance to the East Branch of the Sebasticook River, the Department is making a best professional judgment determination that the discharge does not have a reasonable potential to exceed the national in stream total phosphorus goal of 100 ug/L and therefore not requiring phosphorous sampling at this time. The Department does, however, reserve the right to impose phosphorous testing requirements at any time if deemed necessary and appropriate to protect water quality or aquatic life.

# 7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

Based on information to date, the Department has determined the existing water uses will be maintained and protected provided the permittee complies with the terms and conditions established herein.

## 8. PUBLIC COMMENTS

Public notice of this application was made in the <u>Rolling Thunder Express</u> newspaper on or about <u>April 07, 2014</u>. 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:

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

# **10. RESPONSE TO COMMENTS**

During the period October 16, 2014, through the issuance of this permit, the Department solicited comments from state and federal agencies as well as parties that expressed interest in the proposed draft permit for the permittee's facility. The Department did receive written comments from USEPA in an email dated 10/16/14. Therefore, the Department has prepared a Response to Comments as follows:

# *Comment #1. Does the discharge flow channelize through the wetland or does it become widely dispersed?*

**Response:** Flow in not channelized through the wetland. The dispersion pool excavated at the end of the outfall pipe during construction of the facility provides flow energy reduction and promotes even distribution of effluent throughout the vegetated wetland.

# Comment #2 The conclusion that there is no reasonable potential for phosphorus to cause or contribute to a criteria excursion appears to be based on an assumption that the wetland will assimilate the phosphorus before it reaches the stream. Why not include effluent and ambient TP monitoring in order to get the data necessary to verify this assumption?

**Response:** The Department has made the Best Professional Judgment that effluent and ambient TP monitoring is not warranted in this case because the TP content of the effluent is being assimilated by the approximately 1000 ft. of vegetated wetland between the outfall pipe and the main stem of the East Branch of the Sebasticook River. The effluent flow is evenly distributed throughout the wetland prior to reaching the main stem of the river, allowing for ample time, especially during the summer months for the vegetation to use the nutrient load.

# ATTACHMENT A



# ATTACHMENT B

DEPLW1083-2009

# CHAPTER 530(2)(D)(4) CERTIFICATION

MEPDES#	Facility Nam			
Since the effective date of your pe have there been:	ərmit	NO	YES (Describe in Comments)	
<ol> <li>changes in the number or types domestic wastes contributed direct to the wastewater treatment works increase the toxicity of the dischard</li> </ol>	s of non- otly or indirectly s that may arge?			
2. changes in the operation of the works that may <b>Increase</b> the toxic discharge?	treatment Ity of the			
3. changes in industrial manufactur contributing wastewater to the treat that may increase the toxicity of the	iring processes atment works ne discharge?			
COMMENTS:	<u> </u>			
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· · · · · · · · · · · · · · · · · · ·				
Name(print)				
Signature	Date		<u></u>	
Fhis doormont months stated by a	ha naunittaa au th		PARADESIUS	
me accument must be signed by t	ne beruittee of the	ы калантар	resentative.	
his form may be used to meet the requireme	ents of Chap 530(2(D)(4	i). This Chapte	er requires all	
schargers having walved of reduced TOXIC (		ur with the Det		

describing changes to the waste being contributed to their system as outlined above. As an alternative the discharger may submit a signed letter containing the same information.

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# ATTACHMENT C

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# PRIORITY POLLUTANT DATA SUMMARY

# Date Range: 19/Sep/2009-19/Sep/2014



Facility Name: 1	NEWPORT		····			NPDES	<u>: M</u>	E010	0447		
	Monthly	Dally	Total Test		Те	st # B	ly Gr	oup			
Test Date	(Flow I	MGD)	Number	M	v	BN	- p	0	A	- Clean	Hg
09/30/2009	0.19	0.19	2	2	0_	0	0	0	0	<u> </u>	<u> </u>
	Monthly	Dally	Total Test		Te	st#B	y_Gr	oup			
Test Date	(Flow )	4GD)	Number	М	V	BN	P	0	A	Clean	Hg
08/16/2010	0.14	0.14	11	10	0	0	0	1	0	F	<u>0</u>
	Monthly	Daily	Total Test		Te	st # B	y Gr	oup			
Test Date	(Flow 1	1GD)	Number	M	v	BN	Р	0	Α	Clean	Hg
12/14/2011	0.29	0.27	11	10	<u>0</u>	0	0	1	0	F	<u>.</u>
	Monthly	Daily	Total Test		Tes	st#B	y Gr	oup			
Test Date	(Flow N	1GD)	Number	M	V	BN	P	0	A	Clean	Hg
03/20/2012	0.37	0.48	11	10	0	0	0	_1_	0	F	<u>0</u>
	Monthly	Daily	Total Test		Tes	it#B	y Gr	oup			
Test Date	(Flow N	1GD)	Number	M	Ŷ	BN	p	0	A	Clean	Hg
06/13/2013	0.38	0.68	11	10	0	0	0	1	0	<u>F</u>	0
	Monthly	Daily	Total Test		Tes	it#B	v Gro	oup			
Test Date	(Flow M	IGD)	Number	M	V	BN	P	Ö	A	Clean	Hg
12/17/2013	0.25	0.22	11	10	0	0	0	_ 1	0	F	Ō
	Monthly	Daily	Total Test		Tes	t#B	v Gro	aub			
Test Date	(Flow M	IGD)	Number	M	V	BN	P	0	A	Clean	Hg
03/04/2014	0.25	0.15	125	14	28	46	25	1	11	F	0
	Monthly	Daily	Total Test		Tes	t # Bv	y Gro	up			
Test Date	(Flow M	IGD)	Number	M	V	BN	р	Ò	A	Clean	Hg
06/03/2014	0.24	0,18	11	10	0	0	0	1	0	F	ō

Key

 A = Acid
 O = Others
 P = Pesticides

 BN = Base Neutral
 M = Metals
 V = Volatiles

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# FACILITY PRIORITY POLLUTANT DATA REPORT

Data Date Range: 19/Sep/2009-19/Sep/2014



Facility name: NEWPORT	Permit Number: ME0100447				
Parameter: COPPER	Test date	Result (ug/l)	Lsthar		
	09/30/2009	6.000	N		
	08/16/2010	5.000	N		
	12/14/2011	8.000	N		
	03/20/2012	4.000	N		
	06/13/2013	3,160	N		
	12/17/2013	3.030	Ν		
	03/04/2014	4.190	N		
	06/03/2014	3.000	Y		

# STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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#### 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).

#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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 a carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

**10.** Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

**11.** Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee if its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

#### **B. OPERATION AND MAINTENACE OF FACILITIES**

#### 1. General facility requirements.

(a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

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#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.

#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

(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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#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

#### 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.

#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

#### **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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#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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).

# STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- (b) That any activity has occurred or will occur which would result in any discharge, on a nonroutine 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.

# STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminates and shall specify means of disposal and or treatment to be used.

3. **Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. Connection to municipal sewer. (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

**F. DEFINITIONS.** For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best management practices ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Composite sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

**Continuous discharge** means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**Daily discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

**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.

#### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

**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. <u>ADMINISTRATIVE APPEALS TO THE BOARD</u>

#### 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: OCF/90-1/r95/r98/r99/r00/r04/r12

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- 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.