STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

August 10, 2009

Mr. Dan Bolduc
Town of Oakland
PO Box 187
Oakland, Maine 04963

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100463
Maine Waste Discharge License (WDL) Application # W-002690-6C-D-R
Final Permit/License, Oakland Wastewater Treatment Facility

Dear Dan:

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

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

If you have any questions regarding the matter, please feel free to call me at (207) 287-6114 or contact me via email at Robert.D.Stratton@maine.gov.

Sincerely,

Bob Stratton

Robert D. Stratton
Division of Water Quality Management
Bureau of Land and Water Quality

Enc./cc: Denise Behr, Steve McLaughlin, Tim MacMillan (MEDEP); Sandy Mojica (USEPA); Peter Nielsen (Oakland); Jim Fitch, Kyle Coolidge (Woodard & Curran, Inc.)

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550FAX: (207) 624-6024
RAY BLDG., HOSPITAL ST.

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PORTLAND, MAINE 04103
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

IN THE MATTER OF

TOWN OF OAKLAND	)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS	)	ELIMINATION SYSTEM PERMIT
OAKLAND, KENNEBEC COUNTY, MAINE	)	AND
#ME0100463	)	WASTE DISCHARGE LICENSE
#W-002690-6C-D-R **APPROVAL**	)	**RENEWAL**

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

APPLICATION SUMMARY

The applicant has applied for a renewal of Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0100463 / Maine Waste Discharge License (WDL) #W002690-5L-C-R, which was issued on May 15, 2001 for a five-year term and administratively modified on April 9, 2004. The MEPDES Permit / Maine WDL authorized the discharge of 0.48 million gallons per day (MGD) of secondary treated sanitary wastewater from a municipal treatment facility to the Rice Rips impoundment (Class GPA water) on Messalonskee Stream (Class C water) in Oakland, Maine. This permitting action authorizes continuance of the discharge to the Rice Rips impoundment until December 1, 2011, by which time the licensed discharge shall be eliminated.

PERMIT SUMMARY

This permitting action is similar to the May 15, 2001 MEPDES Permit / Maine WDL and subsequent Administrative Modification in that it is carrying forward all previous terms and conditions with a few exceptions. This licensing action is different in that it is:

1. establishing a daily maximum flow reporting requirement;
2. revising the minimum measurement frequency requirement for settleable solids based on facility compliance and Department best professional judgement (BPJ);
3. revising the *E. coli* bacteria limits and monitoring requirement season to be consistent with other water classes;
4. establishing monthly average water quality based mass and concentration limits for inorganic arsenic based on facility toxicity testing results, with a schedule of compliance that delays the effective date of the limits until the USEPA approves of a test method for inorganic arsenic, and interim procedures for monitoring and reporting total arsenic;

PERMIT SUMMARY (cont'd)

5. establishing water quality based mass and concentration limits for cadmium and lead (monthly average) and copper (daily maximum) based on facility toxicity testing results;
6. eliminating whole effluent toxicity (WET), analytical chemistry, and chemical specific (priority pollutant) testing requirements for any parameters that have not demonstrated a reasonable potential to exceed or exceedence of applicable criteria pursuant to Department BPJ;
7. establishing requirements to maintain a current wet weather flow management plan for the facility;
8. establishing requirements to maintain a current Operations and Maintenance Plan for the facility;
9. establishing requirements to report annually on any changes to the influent waste-stream or facility operations that may result in increases in the toxicity of the discharge;
10. establishing a Schedule of Compliance for elimination of the discharge to the Rice Rips impoundment; and
11. eliminating previously established ambient water quality monitoring requirements pursuant to plans to eliminate the discharge.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated May 27, 2009, revised August 6, 2009, and subject to the Conditions listed below, the Department makes the following conclusions:

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

ACTION

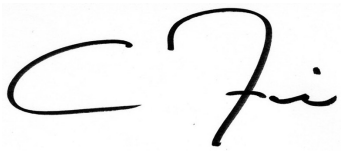
THEREFORE, the Department APPROVES the application of the TOWN OF OAKLAND to discharge up to a monthly average flow of 0.48 MGD of secondary treated sanitary wastewater from a publicly owned treatment works to the Rice Rips impoundment (Class GPA) on Messalonskee Stream (Class C) in Oakland, Maine, SUBJECT TO THE FOLLOWING 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. The term of this permit shall expire on December 1, 2011.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2009.08.10 15:17:41 -04'00'

Date of initial receipt of application: October 20, 2005
Date of application acceptance: October 21, 2005

This Order prepared by Robert D. Stratton, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS
A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **secondary treated sanitary wastewater** from **Outfall #001A** to the Rice Rips impoundment on Messalonskee Stream. Such discharges shall be limited and monitored by the permittee as specified below. The italicized numeric values bracketed in the table below and in the text on subsequent pages are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs). Footnotes are found on Pages 6-7.

Effluent Characteristic	**Discharge Limitations**						**Minimum Monitoring Requirements**	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	0.48 MGD *[03]*	---	Report MGD *[03]*	---	---	---	Continuous *[99/99]*	Recorder *[RC]*
Biochemical Oxygen Demand (BOD_5) *[00310]*	120 lbs/Day *[26]*	180 lbs /Day *[26]*	200 lbs/Day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24-Hr. Composite *[24]*
BOD_5 Percent Removal (1) *[81010]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Total Suspended Solids (TSS) *[00530]*	120 lbs/Day *[26]*	180 lbs /Day *[26]*	200 lbs/Day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	24-Hr. Composite *[24]*
TSS Percent Removal (1) *[81011]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids *[00545]*	---	---	---	---	---	0.3 ml/L *[25]*	1/Week *[01/07]*	Grab *[GR]*
E. Coli Bacteria(2) ***(May 15 – Sept 30)*** *[51040]*	---	---	---	29/100 ml(3) *[13]*	---	194/100 ml *[13]*	1/Week *[01/07]*	Grab *[GR]*
Total Residual Chlorine(4) *[00665]*	---	---	---	---	---	0.1 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
Total Phosphorus(5) ***(June 1 – Sept 30)*** *[00665]*	---	---	10.0 #/Week *[59]*	---	---	---	1/Week *[01/07]*	24-Hr. Composite *[24]*
Total Phosphorus(5) ***(June 1 – Sept 30)*** *[00665]*	---	3.0 #/Week *[59]*	---	---	---	---	1/Year *[01/YR]*	24-Hr. Composite *[24]*
pH *[00400]*	---	---	---	---	---	6.0-9.0 S.U. *[12]*	1/Day *[01/01]*	Grab *[GR]*

SPECIAL CONDITIONS
A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
1. OUTFALL #001A (cont'd)

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
	as specified	as specified	as specified	as specified	as specified	as specified	as specified	as specified
Arsenic (total) [6] *[01002]* **(Upon permit issuance)**	report lb/day *[26]*	---	---	report ug/L *[28]*	---	---	2/Year[8] *[02/YR]*	24-Hr. Composite *[24]*
Arsenic (Inorganic) [7] *[01252]* **(Upon EPA test method approval)**	0.0022 lb/day *[26]*	---	---	0.56 ug/L *[28]*	---	---	2/Year[8] *[02/YR]*	24-Hr. Composite *[24]*
Cadmium (total) *[01027]*	0.05 lb/day *[26]*	---	---	2 ug/L *[28]*	---	---	2/Year[8] *[02/YR]*	24-Hr. Composite *[24]*
Copper (total) *[01042]*	---	---	0.058 lb/day *[26]*	---	---	22 ug/L *[28]*	2/Year[8] *[02/YR]*	24-Hr. Composite *[24]*
Lead (total) *[01051]*	0.026 lb/day *[26]*	---	---	9 ug/L *[28]*	---	---	2/Year[8] *[02/YR]*	24-Hr. Composite *[24]*

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

Footnotes:

Sampling Locations: Effluent samples for all parameters shall be collected after the last treatment process prior to discharge to the receiving water on a year-round basis. Any change in sampling location(s) must be reviewed and approved by the Department in writing. Sampling and analysis must be conducted 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 shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

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

1. **Percent removal** - The treatment facility shall maintain a minimum of 85 percent removal of both BOD_5 and TSS. The percent removal shall be based on a monthly average calculation using influent and effluent concentrations. The percent removal shall be waived when the monthly average influent concentration is less than 200 mg/L. For instances when this occurs, the facility shall report *"NODI-9"* on the monthly Discharge Monitoring Report.

2. ***E. coli* bacteria limits and monitoring requirements –** *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 require disinfection on a year-round basis to protect the health, safety, and welfare of the public.

3. **Geometric mean** – The monthly average *E. coli* bacteria limitation is a geometric mean limitation and shall be calculated and reported as such.

4. **Total residual chlorine (TRC) limits and monitoring requirements –** TRC limits and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee shall utilize test methods that bracket the applicable permit limits.

SPECIAL CONDITIONS

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

5. **Total Phosphorus -** The permittee is limited to a maximum discharge of 10.0 lbs of phosphorus per week and an average discharge of 3.0 lbs of phosphorus per week. The weekly maximum value corresponds to the maximum allowable phosphorus discharge per week. The permittee shall report each week's value on a separate form along with the applicable monthly DMR. The weekly average value corresponds to the average of weekly mass values collected during the monitoring period, calculated on annual basis and reported with the December DMR each year. Phosphorous limits and monitoring requirements are seasonal and apply between June 1 and September 30 each year.

6. **Arsenic (Total)** – **Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic**, the permittee shall sample and analyze the discharge from the facility for total arsenic. The Department's most current reporting limit (RL) for total arsenic is 5 ug/L but may be subject to revision during the term of this permit. All detectable analytical test results shall be reported to the Department including results which are detected below the Department's most current RL at the time of sampling and reporting. Only the detectable results greater than the total arsenic threshold of 1.1 ug/L (See Fact Sheet page 22) or the Department's RL at the time (whichever is higher) will be considered as a possible exceedence of the inorganic limit. Arsenic limits are based on risks from long-term exposure, therefore, though the effluent limit is expressed as a monthly average, the Department will evaluate compliance as an annual average.

7. **Arsenic (Inorganic)** – The limitations and monitoring requirements for inorganic arsenic are not in effect until the USEPA approves of a test method for inorganic arsenic. Once effective, compliance will be based on a 12-month rolling average basis beginning 12 months after the effective date of the limits. See Special Condition M, *Schedule of Compliance – Inorganic Arsenic,* of this permit.

8. **2/Year monitoring** – Monitoring shall be conducted twice per year in alternating calendar quarters. During one year, monitoring shall occur in the 1st and 3rd calendar quarters. During the next year, monitoring shall occur in the 2nd and 4th calendar quarters. This alternating monitoring sequence shall continue through the life of the permit.

SPECIAL CONDITIONS
B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.

2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.

3. The discharges shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by 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. DISINFECTION

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

D. TREATMENT PLANT OPERATOR

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

E. LIMITATIONS FOR INDUSTRIAL USERS

Pollutants introduced into the wastewater collection and treatment system by a non-domestic source (user) shall not pass through or interfere with the operation of the treatment system.

SPECIAL CONDITIONS
F. NOTIFICATION REQUIREMENT

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

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

2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system.

3. For the purposes of this section, notice regarding substantial change shall include information on:

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

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

G. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on October 21, 2005; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

H. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall maintain a current 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. The 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 to be adhered to during the events.

The permittee shall review their plan annually and record any necessary changes to keep the plan up to date.

SPECIAL CONDITIONS

I. OPERATION & MAINTENANCE (O&M) PLAN

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

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

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

J. CHAPTER 530(2)(D)(4) CERTIFICATION

On or before December 31 of each year *[PCS code 95799]* the permittee is required to file a statement with the Department describing the following.

1. 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;
2. Changes in the operation of the treatment works that may increase the toxicity of the discharge; and
3. Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge.

   Further, the Department may require that annual WET, analytical chemistry or priority pollutant testing be instituted if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

K. MERCURY SAMPLING REQUIREMENTS

All mercury sampling (1/quarter) required to determine compliance with interim limitations established pursuant to Department rule Chapter 519, shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analysis shall be conducted in accordance with EPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See Attachment B of this permit for the Department's report form for mercury results.

SPECIAL CONDITIONS
L. 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. If you are receiving hard-copy DMR forms by mail, the completed, returned forms must be **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that the DMRs are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the Department assigned inspector (unless otherwise specified by the Department) at the following address:

Department of Environmental Protection
Bureau of Land and Water Quality
17 State House Station
Augusta, Maine 04333

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 15th day of the month** following the completed reporting period. **Hard Copy documentation** submitted in support of the eDMR must be **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. **Electronic documentation** in support of the eDMR must be submitted **not later than close of business on the 15th day of the month** following the completed reporting period.

M. SCHEDULE OF COMPLIANCE:

1. <u>Inorganic Arsenic</u>

Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic arsenic are not in effect. During this time frame, the permittee is required by Special Condition A, *Effluent Limitations and Monitoring Requirements*, of this permit to conduct 2/year sampling and analysis for total arsenic.

Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.

SPECIAL CONDITIONS
M. SCHEDULE OF COMPLIANCE (cont'd):

2. **Elimination of Discharge.**

Pursuant to Maine Law, 38 MRSA, Section 465-A.1.C, and based upon the identification of a practical alternative to its discharge, Oakland must remove its direct wastewater discharge to the Rice Rips impoundment of Messalonskee Stream, Class GPA, according to the following schedule of compliance.

a. **On or before June 30, 2010,** the permittee shall substantially complete construction of the Webb Road gravity sewer interceptor. *[PCS code 09199]*

b. **On or before October 31, 2011,** the permittee shall substantially complete construction and installation of the pump station and force main from Oakland to Waterville. *[PCS code 09199]* On or before this same date, the permittee shall route all wastewater flows from Oakland to Waterville and shall eliminate the permittee's wastewater discharge to the Rice Rips impoundment. *[PCS code 05199]*

c. **On December 1, 2011,** MEPDES Permit #ME0100463 / Maine WDL #W-002690-6C-D-R, authorizing the Town of Oakland's wastewater discharge to the Rice Rips impoundment, shall expire.

N. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to; 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional effluent and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information including, but not limited to, new information from ambient water quality studies of the receiving water.

O. 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

Protocol for Total Phosphorus Sample Collection and Analysis for Waste Water and Receiving Water Monitoring Required by Permits

Approved Analytical Methods: EPA 365.1 (Rev. 2.0), 365.3, 365.4; SM 4500-P B.5, 4500-P E, 4500-P F; ASTM D515-88(A), D515-88(B); USGS I-4600-85, I-4610-91; OMAAOAC 973.55, 973.56

Sample Collection: The Maine DEP is requesting that total phosphorus analysis be conducted on composite effluent samples, unless a facility's Permit specifically designates grab sampling for this parameter. Facilities can use individual collection bottles or a single jug made out of glass or polyethylene. Bottles and/or jugs should be cleaned prior to each use with dilute HCL. This cleaning should be followed by several rinses with distilled water. Commercially purchased, pre-cleaned sample containers are an acceptable alternative. The sampler hoses should be cleaned, as needed.

Sample Preservation: During compositing the sample must be at 0-6 degrees C (without freezing). If the sample is being sent to a commercial laboratory or analysis cannot be performed the day of collection then the sample must be preserved using H_2SO_4 to obtain a sample pH of <2 su and refrigerated at 0-6 degrees C (without freezing). The holding time for a preserved sample is 28 days.

Note: Ideally, Total P samples are preserved as described above. However, if a facility is using a commercial laboratory then that laboratory may choose to add acid to the sample once it arrives at the laboratory. The Maine DEP will accept results that use either of these preservation methods.

Laboratory QA/QC: Laboratories must follow the appropriate QA/QC procedures that are described in each of the approved methods.

Sampling QA/QC: If a composite sample is being collected using an automated sampler, then once per month run a blank on the composite sampler. Automatically, draw distilled water into the sample jug using the sample collection line. Let this water set in the jug for 24 hours and then analyze for total phosphorus. Preserve this sample as described above.

ATTACHMENT B

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

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

SAMPLE COLLECTION INFORMATION

Sampling Date: ___ ___ _____ (mm dd yy) Sampling time: _____ AM/PM

Sampling Location:

Weather Conditions: _____

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

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

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

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

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

Please Enter Effluent Limits for your facility

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

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: May 27, 2009
Revised: August 6, 2009

MEPDES PERMIT NUMBER: #ME0100463
MAINE WDL NUMBER: #W-002690-6C-D-R

NAME AND MAILING ADDRESS OF APPLICANT:

TOWN OF OAKLAND
P.O. Box 187
Oakland, Maine 04963

COUNTY: Kennebec

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

Oakland Wastewater Treatment Plant
41 Municipal Drive
Oakland, Maine

RECEIVING WATER/CLASSIFICATION: Rice Rips impoundment (Class GPA) on Messalonskee Stream (Class C)

COGNIZANT OFFICIAL AND CONTACT INFORMATION: Mr. Daniel Bolduc
(207) 465-7198; dbolduc@oaklandmaine.com

1. APPLICATION SUMMARY

a. Application: The applicant has applied for a renewal of Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0100463 / Maine Waste Discharge License (WDL) #W002690-5L-C-R, which was issued on May 15, 2001 for a five-year term and administratively modified on April 9, 2004. The MEPDES Permit / Maine WDL authorized the discharge of 0.48 million gallons per day (MGD) of secondary treated sanitary wastewater from a municipal treatment facility to the Rice Rips impoundment (Class GPA water) on Messalonskee Stream (Class C water) in Oakland, Maine. This permitting action authorizes continuance of the discharge to the Rice Rips impoundment until December 1, 2011, by which time the licensed discharge shall be eliminated.

2. PERMIT SUMMARY

a. Regulatory: On January 12, 2001, the Department received authorization from the U.S. Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine, excluding areas of special interest to Maine Indian Tribes. On October 30, 2003, after consultation with the U.S. Department of Justice, USEPA extended Maine's NPDES program delegation to all but tribally owned discharges. That decision was subsequently appealed. On August 8, 2007, a panel of the U.S. First Circuit Court of Appeals ruled that Maine's environmental regulatory jurisdiction applies uniformly throughout the State. From January 12, 2001 forward, the program has been referred to as the MEPDES program and permit #ME0100463 (same as NPDES permit number) utilized as the primary reference number for the town of Oakland.

b. Terms and Conditions: This permitting action is similar to the May 15, 2001 MEPDES Permit / Maine WDL and subsequent Administrative Modification in that it is carrying forward all previous terms and conditions with a few exceptions. This licensing action is different in that it is:

1. establishing a daily maximum flow reporting requirement;
2. revising the minimum measurement frequency requirement for settleable solids based on facility compliance and Department best professional judgement (BPJ);
3. revising the *E. coli* bacteria limits and monitoring requirement season to be consistent with other water classes;
4. establishing monthly average water quality based mass and concentration limits for inorganic arsenic based on facility toxicity testing results, with a schedule of compliance that delays the effective date of the limits until the USEPA approves of a test method for inorganic arsenic, and interim procedures for monitoring and reporting total arsenic;
5. establishing water quality based mass and concentration limits for cadmium and lead (monthly average) and copper (daily maximum) based on facility toxicity testing results;
6. eliminating whole effluent toxicity (WET), analytical chemistry, and chemical specific (priority pollutant) testing requirements for any parameters that have not demonstrated a reasonable potential to exceed or exceedence of applicable criteria pursuant to Department BPJ;
7. establishing requirements to maintain a current wet weather flow management plan for the facility;
8. establishing requirements to maintain a current Operations and Maintenance Plan for the facility;
9. establishing requirements to report annually on any changes to the influent waste-stream or facility operations that may result in increases in the toxicity of the discharge;
10. establishing a Schedule of Compliance for elimination of the discharge to the Rice Rips impoundment; and
11. eliminating previously established ambient water quality monitoring requirements pursuant to plans to eliminate the discharge.

2. PERMIT SUMMARY (cont'd)

c. History: The most recent relevant regulatory actions include the following:

August 29, 1995 – The Department issued a Water Quality Certification (#L-17585-33-D-N) pursuant to Section 401 of the Federal Water Pollution Control Act to Central Maine Power Co. establishing minimum flow requirements of 15 cubic feet per second (cfs) (9.7 MGD) from a water storage dam and four discrete hydro generating facilities on Messalonskee Stream.

November 14, 1995 – The Department issued a letter authorizing Oakland's request for a five year WDL to discharge to Messalonskee Stream on a year round basis instead of seasonal discharges and spray irrigation, based on process control and physical modifications at the treatment facility.

March 19, 1996 - The Department issued WDL #W-002690-47-B-R for the Oakland facility, which superseded WDL #W-002690 issued on September 14, 1983, and subsequent amendments.

August 5, 1996 – The Department issued #W-002690-68-A-N certifying that the discharge proposed in a pending NPDES permit was in compliance with applicable sections of State law and the Federal Water Pollution Control Act.

August 15, 1996 - The USEPA issued NPDES permit #ME0100463 for the Oakland facility, superceding an earlier NPDES permit issued on December 16, 1985.

July 19, 1997 – Cascade Woolen Mill ceased discharge of industrial wastewater to the Oakland facility. When in operation, Cascade contributed approximately 50% of the dry weather flow to the Oakland facility through its sanitary and process wastewater flows.

January 20, 1998 – The Department administratively modified Special Condition G of WDL #W-002690-47-B-R, authorizing a reduction in required sampling on the Rice Rips impoundment in consideration of previous sample results and in response to a December 19, 1997 request from the Town of Oakland.

May 15, 2001 - The Department issued WDL #W-002690-5L-C-R / MEPDES Permit #ME0100463 for the discharge of up to a monthly average of 0.48 MGD of secondary treated sanitary wastewater from the Oakland POTW to the Rice Rips impoundment on Messalonskee Stream. The Permit/WDL incorporated the terms and conditions of the MEPDES permit program and was issued for a five-year term.

April 9, 2004 – The Department issued an Administrative Modification of WDL #W-002690-5L-C-R / MEPDES Permit #ME0100463 to modify effluent phosphorus limits and to revise seasonal total residual chlorine limits and monitoring requirements to year-round whenever chlorine is used to disinfect the wastewater.

2. PERMIT SUMMARY (cont'd)

October 20, 2005 – The District submitted a timely application for renewal of its WDL / MEPDES Permit. The application was assigned WDL #W-002690-6C-D-R / MEPDES Permit #ME0100463, but was not acted on by the Department pending discussions with the permittee regarding investigations into alternative discharge options and elimination of the wastewater discharge to the Rice Rips impoundment, Class GPA.

February 2008– On behalf of the Town of Oakland, Woodard & Curran Inc submitted a Wastewater Treatment Facility Effluent Discharge Alternatives Evaluation (addendum Dec. 2008), which determined that a practical alternative to the Rice Rips impoundment discharge existed in the form of connection to the Waterville Sewerage District.

d. Source Description: The facility receives residential sanitary wastewater from approximately 900 customers in the Town of Oakland. Cascade Woolen Mill ceased operation in 1997, leaving no significant industrial users within the collection system. There are no combined sewer overflows. The facility is not authorized to treat septage at the wastewater treatment facility. Local septage haulers transport septage to the Kennebec Sanitary Treatment District in Waterville. Wastewater treatment sludge is disposed of at the Hawk Ridge compost facility in Unity.

e. Wastewater Treatment: Wastewater generated in Oakland is conveyed via a sewer collection system and three pump stations to the facility headworks building where influent flows are passed through a comminutor for grinding and a grit chamber for grit removal. Wet weather flows are received at the facility in a 200,000 gallon above ground, open tank formerly used as an equalization tank for flows from Cascade Woolen Mill and are then introduced into the facility waste-stream. Combined wastewater flows are then diverted to one of two available 75,000 gallon diffused air aeration basins (total capacity 150,000 gallons if necessary), followed by two 0.096 million gallon (MG) secondary clarifiers (total capacity 0.192 MG). Wastewater is chlorinated seasonally and passed through a 15,000 gallon chlorine contact tank, which is designed to provide 15 minutes of contact under a peak flow of 1.44 MGD. The flow is then dechlorinated with liquid bisulfite and discharged via a 15 inch diameter effluent discharge pipe.

Ferric chloride is added to the wastewater in the aeration basins to reduce total phosphorus in the effluent. Although effluent phosphorus limits and monitoring requirements do not apply between October 1 and May 31, Oakland continues to add a reduced amount of ferric chloride during this period to treat phosphorus and maintain facility efficiency. The ferric chloride is stored on site in a 4,000 gallon above ground storage tank. Oakland also seasonally utilizes magnesium hydroxide for pH control.

Sludge is wasted from the secondary clarifiers to a 50,000 gallon sludge holding tank, thickened on a 1 meter belt filter press, and sent to the Hawk Ridge composting facility in Unity for disposal.

2. PERMIT SUMMARY (cont'd)

Flow is measured by a continuous recording flow meter. The Oakland wastewater treatment facility discharges secondary treated wastewater to the Rice Rips impoundment (Class GPA) on Messalonskee Stream, a Class C water in Oakland, Maine. Receiving water flows and dilution factors were based on the licensed minimum flow requirement (15 cfs) for the Rice Rips impoundment.

Pursuant to Maine Law, 38 MRSA, Section 465-A.1.C, Oakland has investigated and identified a practical alternative to its wastewater discharge to the Rice Rips impoundment. Permit Special Condition M.2 of this permitting action establishes a Schedule of Compliance for construction of the necessary infrastructure to enable transport of Oakland's wastewater flows to the Waterville Sewerage District's wastewater infrastructure and elimination of the Oakland wastewater discharge.

3. CONDITIONS OF PERMITS:

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

4. RECEIVING WATER QUALITY STANDARDS:

Maine law, 38 M.R.S.A., Section 465-A defines Class GPA waters, which include the Rice Rips impoundment at the point of discharge, and describes the standards for waters classified as Class GPA waters. Maine law (38 M.R.S.A. §465-A(1)(C) only allows the discharge of pollutants to Class GPA waters when they were licensed prior to January 1, 1986, and only until such time that practical alternatives exist. The Department finds that the discharge was licensed prior to January 1, 1986. However, the Department further finds, based on investigations conducted by Oakland, that practical alternatives to the permitted discharge exist at this time and therefore establishes a Schedule of Compliance (Permit Special Condition M.2) to provide for elimination of the Rice Rips impoundment discharge and limits the term of this permitting action accordingly.

5. RECEIVING WATER QUALITY CONDITIONS:

The State of Maine 2008 *Integrated Water Quality Monitoring and Assessment Report* (DEPLW0895), prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act contains lists of waters in Maine that are attaining water quality standards as well as those that are impaired. The Rice Rips impoundment is not listed in the report, but Messalonskee Stream is listed in several categories. Category 2, Lake Waters Within Hydrologic Unit Attaining Some Designated Uses – Insufficient Information for Other Uses, lists a Messalonskee Stream Hydrologic Unit (Hydrologic Unit Code ID ME0103000310) that includes 48 lakes encompassing 207.64 square miles and 4,073 acres. Additionally, Category 2, Rivers and Streams Attaining Some Designated Uses – Insufficient Information for Other Uses, lists a 10.27 mile Class C segment of the main stem of Messalonskee Stream (Assessment Unit ID ME0103000305_323R). All freshwaters in Maine are listed as only partially attaining the designated use of recreational fishing due to a fish consumption advisory (Category 5-C). The advisory was established in response to elevated levels of mercury in some fish caused by atmospheric deposition.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of DMR data for the facility for the period of July 2005 through December 2008 indicates the permittee has been in compliance with the interim limits for mercury with the exception of one sample.

Though the Rice Rips impoundment is not listed in the above referenced 303(d)/305(b) report, it is noted that the Department has previously characterized the water quality in the impoundment as marginal based upon historical concerns, including a failure to meet Class GPA standards in 2005 due to an algae bloom.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS:

a. Flow: This permitting action is carrying forward the monthly average flow limitation of 0.48 MGD from the previous licensing action, considered representative of the monthly average design flow for the facility. This permitting action establishes a daily maximum flow reporting requirement, common to facility discharge permits and based upon Department best professional judgement (BPJ).

A review of the Discharge Monitoring Report (DMR) data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

EFFLUENT FLOW

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	0.48 MGD	0.05 MGD	0.62 MGD	0.27 MGD	60

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

b. Dilution Factors: The Department has made the determination that the dilution factors associated with the discharge shall be calculated in accordance with freshwater protocols established in Department Regulation Chapter 530, *Surface Water Toxics Control Program*, October 2005. With a monthly average treatment plant design flow of 0.48 MGD and the 15 cfs licensed minimum flow requirement for the Rice Rips impoundment, the dilution factors are calculated as follows:

Acute 1/4 1Q10 = 3.75 cfs $\Rightarrow \frac{(3.75 \text{ cfs})(0.6464) + 0.48 \text{ MGD}}{0.48 \text{ MGD}} = 6.05{:}1$

Acute: 1Q10 = 15.0 cfs $\Rightarrow \frac{(15.0 \text{ cfs})(0.6464) + 0.48 \text{ MGD}}{0.48 \text{ MGD}} = 21.2{:}1$

Chronic: 7Q10 = 15.0 cfs $\Rightarrow \frac{(15.0 \text{ cfs})(0.6464) + 0.48 \text{ MGD}}{0.48 \text{ MGD}} = 21.2{:}1$

Harmonic Mean = 45.0 cfs $\Rightarrow \frac{(45.0 \text{ cfs})(0.6464) + 0.48 \text{ MGD}}{0.48 \text{ MGD}} = 61.6{:}1$

Chapter 530.4.B(1) states that analyses using numeric acute criteria for aquatic life must be based on ¼ of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone. The regulation goes on to say that 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, up to including all of it. The Department's records indicate that Oakland's discharge does not achieve rapid and complete mixing with the receiving water. Therefore, the Department is utilizing the default stream flow of ¼ of the 1Q10 pursuant to Chapter 530 in acute evaluations.

c. Biochemical oxygen demand (BOD_5) and total suspended solids (TSS): The previous permitting action carried forward monthly and weekly average BOD_5 and TSS best practicable treatment (BPT) based concentration limits of 30 mg/L and 45 mg/L respectively, that are based on secondary treatment requirements in Department rule Chapter 525(3)(III). The maximum daily BOD_5 and TSS concentration limits of 50 mg/L were based on a Department best professional judgment of BPT. All three concentration limits are being carried forward in this permitting action, common to all permits for publicly owned treatment works permitted by the Department. Mass limits for BOD_5 and TSS in the previous permitting action were calculated based on the monthly average discharge flow limit of 0.48 MGD and the applicable concentration limits and are also being carried forward in this permitting action. In this permitting action, the mass limits are calculated as follows.

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

Monthly average: (0.48 MGD)(8.34 lbs/gal)(30 mg/L) = 120 lbs/day
Weekly average: (0.48 MGD)(8.34 lbs/gal)(45 mg/L) = 180 lbs/day
Daily maximum: (0.48 MGD)(8.34 lbs/gal)(50 mg/L) = 200 lbs/day

A review of the DMR data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

BOD MASS

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	120 lbs/day	8.2 lbs/day	144 lbs/day	27.8 lbs/day	59
Weekly Avg.	180 lbs/day	12 lbs/day	456 lbs/day	45.8 lbs/day	59
Daily Max.	200 lbs/day	12 lbs/day	456 lbs/day	45.8 lbs/day	59

BOD CONCENTRATION

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	30 mg/L	3.8 mg/L	27 mg/L	11.7 mg/L	59
Weekly Avg.	45 mg/L	4.9 mg/L	46 mg/L	15.7 mg/L	59
Daily Max.	50 mg/L	4.9 mg/L	46 mg/L	15.7 mg/L	59

TSS MASS

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	120 lbs/day	1.7 lbs/day	71 lbs/day	10.9 lbs/day	59
Weekly Avg.	180 lbs/day	2.6 lbs/day	178 lbs/day	24.1 lbs/day	59
Daily Max.	200 lbs/day	2.6 lbs/day	178 lbs/day	24.1 lbs/day	59

TSS CONCENTRATION

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	30 mg/L	1.3 mg/L	13.3 mg/L	4.2 mg/L	59
Weekly Avg.	45 mg/L	2 mg/L	30 mg/L	8.0 mg/L	59
Daily Max.	50 mg/L	2 mg/L	30 mg/L	8.0 mg/L	59

This permitting action is carrying forward monitoring frequency requirements of once per week, consistent with Department guidance for wastewater treatment facilities with effluent flows of between 0.1 and 0.5 MGD. This permitting action is also carrying forward requirements of 85% removal of BOD_5 and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3), except in the circumstances where the monthly average influent concentration is less than 200 mg/L. A review of the DMR data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

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

BOD PERCENT REMOVAL

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	85 %	86 %	97 %	93 %	40

TSS PERCENT REMOVAL

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	85 %	93 %	100 %	98 %	43

d. Settleable Solids: This permitting action is carrying forward the daily maximum concentration limit of 0.3 ml/L for settleable solids established in the previous permitting action and considered by the Department to be representative of BPT. This permitting action revises the previous once per day monitoring frequency requirement to once per week based on the facility's compliance history and Department BPJ. A review of the DMR data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

SETTLEABLE SOLIDS

Value	Limit	Minimum	Maximum	Average	# Values
Daily Max.	0.3 ml/L	<0.01 ml/L	<0.1 ml/L	<0.08 ml/L	59

e. *Escherichia coli (E. coli)* bacteria: The previous permitting action carried forward a monthly average *E. Coli* bacteria concentration limit of 29 colonies per 100 ml and a daily maximum limit of 194 colonies per 100 ml, based on State of Maine Water Classification Program criteria for Class GPA waters, appropriate to the Rice Rips impoundment. These limitations were established in previous licensing actions for Oakland as effective between May 10 and September 30 of each year with a required minimum monitoring frequency of once per week. Maine law 38 MRSA, Section 465-A.1(B) specifies the numerical limits described above, but does not specify whether they must be adhered to on a seasonal or year-round basis, which is specified for other freshwater classifications. The Department interprets concerns for bacteria to be principally based upon concerns with human exposure. As human exposure in the Rice Rips impoundment is more likely in the summer months, this permitting action is carrying forward the seasonal limitation and minimum monitoring frequency, but modifying the season to between May 15 and September 30, to correspond to standard seasonal timeframes established in other receiving water classes.

A review of the DMR data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

E. COLI BACTERIA

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	29/100 ml	0/100 ml	7/100 ml	2.1/100 ml	25
Daily Max.	194/100 ml	0/100 ml	530/100 ml	50.8/100 ml	25

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

f. Total Residual Chlorine (TRC): The previous permitting action carried forward a daily maximum water quality based TRC limit of 0.1 mg/L for the discharge and a once per day minimum monitoring frequency requirement. The effluent limitation and monitoring requirement was imposed from May 10 – September 30 each year to correspond to seasonal disinfection requirements. On April 9, 2004, the Department issued an Administrative Modification of the Permit, extending the TRC effluent limitations and monitoring requirement to year-round whenever chlorine is used to disinfect the wastewater.

Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. The Department imposes the more stringent of the calculated water quality based or technology (BPT) based limits in permitting actions. End-of-pipe water quality based thresholds for TRC may be calculated as follows:

Criterion (mg/L)		Dilution Factors		Calculated Limit (mg/L)	
Acute (A)	Chronic C	Acute	Chronic	Acute	Chronic
0.019	0.011	6.05:1	21.2:1	0.1	0.2

Example calculation: Acute = 0.019 mg/L x 6.05 = 0.1 mg/L

To meet the water quality based limits calculated above, the permittee must dechlorinate the effluent prior to discharge. The Department has established monthly average and daily maximum BPT limitations of 0.1 mg/L and 0.3 mg/L, for facilities that need to dechlorinate their effluent unless calculated water quality based limits are lower than 0.1 mg/L (monthly average) or 0.3 mg/L (daily maximum). In the case of this facility, the calculated acute (daily maximum) water quality based limit of 0.1 mg/L is more stringent than the BPT limit. The calculated chronic (monthly average) water quality based limit of 0.2 mg/L is less stringent than both the BPT limit and the calculated water quality based daily maximum limit and therefore would not be a limiting factor. Therefore, this permitting action establishes TRC limitations consisting of the daily maximum water quality based limit of 0.1 mg/L, but does not establish a monthly average limit as it is considered unnecessary. The previous once per day minimum monitoring requirement is being carried forward. TRC limits and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge.

A review of the DMR data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

TRC CONCENTRATION

Value	**Limit**	**Minimum**	**Maximum**	**Average**	**# Values**
Daily Max.	0.1 mg/L	0.02 mg/L	0.9 mg/L	0.09 mg/L	25

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

g. Total Phosphorus: In the previous permitting action, the Department revised earlier requirements and established effluent phosphorus limits consisting of a weekly mass limit of 5.0 pounds and a total monthly discharge limit of 13.3 pounds, between June 1 and September 30 each year. These limits were established to promote conditions that would prevent algae blooms and were based on reported phosphorus monitoring results, improved treatment performance at the facility, and observable improvements in the receiving water quality. Subsequently, the Department discovered that the effluent data upon which the limits were calculated were reported incorrectly, thereby invalidating the limits themselves. Upon review of available information including recommendations from the permittee's consultants, the Department Administratively Modified the permit on April 9, 2004, establishing revised phosphorus effluent limits consisting of a maximum of 10.0 lbs per week and an average of 3.0 lbs per week from June 1 through September 30 each year.

Phosphorus is still viewed as an important limiting pollutant in freshwater environments, with the point-source and non-point source discharge of it having the potential to cause or contribute to non-attainment of water classification standards and designated uses in receiving waters. The Rice Rips impoundment and Messalonskee Stream have historically experienced water quality problems. The Department is currently developing revised narrative and numerical nutrient criteria for surface waters in Maine. In the interim, this permitting action is carrying forward the 10.0 lbs/week maximum and 3.0 lbs/week average effluent phosphorus limits between June 1 and September 30 each year established in the 2004 Administrative Modification. If phosphorus contributions to the receiving water or conditions in the receiving water change, causing or contributing to non-attainment of water classification standards, the Department may reopen the permit pursuant to Permit Special Condition N and modify effluent limits and/or monitoring requirements as appropriate.

A review of the DMR data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

PHOSPHORUS MASS

Value	Limit	Minimum	Maximum	Average	# Values
Weekly Avg.	3 lb/week	1.9 lbs/week	2.9 lbs/week	2.3 lbs/week	8
Weekly Max.	10 lb/week	2.2 lbs/week	5.5 lbs/week	3.3 lbs/week	19

h. pH: This permitting action is carrying forward the previous BPT pH range limitation of 6.0 – 9.0 standard units established pursuant to Department rule found at Chapter 525(3)(III)(c) and monitoring frequency requirement of 1/day. A review of the DMR data for the Oakland facility for the period of April 2004 through March 2009 indicates the following.

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

pH range

Value	Limit	Minimum	Maximum	Average	# Values
Monthly Avg.	---	6.2 s.u.	7.1 s.u.	---	59
Daily Max.	6.0-9.0 s.u.	6.8 s.u.	7.5 s.u.	---	59

i. Whole Effluent Toxicity (WET) & Chemical-Specific 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 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 Chapter 584. 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 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 Chapter 530 criteria, the Oakland facility falls into the Level II frequency category as the facility has a chronic dilution factor $\geq$20:1 but <100:1. Chapter 530(1)(D)(1) specifies that surveillance and screening level testing requirements are as follows:

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

Surveillance level testing – Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	1 per year	None required	2 per year

Screening level testing – Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	2 per year	1 per year	4 per year

In the 2001 permitting action, pursuant to rules existing at the time, Oakland was required to conduct surveillance level (2001-2004) WET testing at a frequency of once per year for both the water flea and the brook trout and chemical specific testing also at a frequency of once per year. The permittee was required to conduct screening level (beginning 2005) WET testing twice per year with one quarterly test performed on the water flea and the brook trout and one quarterly test performed on the water flea and the fathead minnow. The permittee was also required to conduct screening level chemical specific testing at a frequency of once per year. It is noted that the fathead minnow is no longer used for WET testing at this time.

Pursuant to an April 10, 2006 Permit Modification, Oakland's testing requirements were revised to consist of surveillance level WET testing and Analytical Chemistry testing at a frequency of once per two years, as well as chemical specific testing for arsenic (1/year), copper (2/year), thallium (1/year), cadmium (2/year), and lead (2/year). The 2006 Permit Modification also established screening level WET testing requirements for the water flea and brook trout at a frequency of twice per year, priority pollutant testing at a frequency of once per year, and analytical chemistry testing at a frequency of four times per year.

A review of the data on file with the Department indicates that since the April 2006 permit modification, Oakland has conducted one series of WET tests for the water flea and the brook trout in 2007, one analytical chemistry test in 2007, and periodic tests for individual chemical parameters. See Attachment C of this Fact Sheet for a summary of the WET test results and Attachment D of this Fact Sheet for a summary of the chemical-specific test dates.

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

WET test evaluation

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 exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.*"

Chapter 530 §3 states, "*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."*

On May 27, 2009, the Department conducted a statistical evaluation on the most recent 60 months of WET tests results on file at the Department in accordance with the statistical approach cited above. The statistical evaluation indicated that the discharge from the Oakland wastewater treatment facility does not exceed or have a reasonable potential (RP) to exceed the critical acute (16.5%) or critical chronic (4.7%) water quality thresholds for the WET species currently tested. Therefore, no numeric limitations for any WET species tested to date are being established in this permitting action. It is noted, the critical water quality thresholds expressed in percent (%) were derived as the mathematical inverse of the acute (6.05:1) and chronic (21.2:1) dilution factors.

As for testing frequencies, Chapter 530 §(2)(D)(3)(c) states in part that Level II facilities "*…may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence."* Based on the results of the May 27, 2009 statistical evaluation, the permittee qualifies for the testing reduction for both WET species currently tested, which would consist of the following surveillance level WET testing requirements. Beginning upon issuance of this permit and lasting through 12 months prior to permit expiration.

Species	WET Testing Acute	WET Testing Chronic
Water flea	1 / 2 Years	1 / 2 Years
Brook trout	1 / 2 Years	1 / 2 Years

Additionally, screening level WET testing requirements would consist of the following, beginning 12 months prior to the expiration date of the permit and lasting through permit expiration and every five years thereafter:

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

Level	WET Testing
II	2/Year

However, as Oakland's wastewater discharge to the Rice Rips impoundment shall be eliminated within two years of the effective date of this permitting action, corresponding to the timeframe in which this permitting action shall expire, the Department is not establishing surveillance or screening level WET testing requirements based on BPJ.

Special Condition J, *Chapter 530 §(2)(D)(4) Certification,* of this permitting action requires the permittee to file an annual certification with the Department. It is noted that if future WET testing results indicate the discharge exceeds critical water quality thresholds, this permit will be reopened pursuant to Permit Special Condition N, *Reopening of Permit For Modification*, to establish applicable limitations and monitoring requirements.

Chemical specific testing evaluation

Chapter 530 §3 states, "*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."*

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 does not have sufficient information on the background levels of metals in the water column of Messalonskee Stream. Therefore, a default background concentration of 10% of applicable water quality criteria is being used in the calculations of this permitting action.

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"*. Therefore, the Department is reserving 15% of the applicable water quality criteria in the calculations of this permitting action.

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

One aspect of the new Chapter 530 rule found in Section 4(F) is evaluating toxic pollutant impacts on a watershed basis. Section 4(F) states, "*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 Department is currently working to construct a computer program model to conduct this analysis. Until such time the model is complete and a multi-discharger statistical evaluation can be conducted, the Department is evaluating the impact of Oakland's discharge assuming it is the only discharger to the stream. Should the multi-discharger evaluation indicate there are parameters that exceed or have a reasonable potential to exceed applicable AWQC, this permit may be reopened pursuant to Special Condition N, *Reopening of Permit For Modifications*, to incorporate additional limitations and or revise monitoring requirements.

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 exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.*

As with WET test results, on May 27, 2009, the Department conducted a statistical evaluation on the most recent 60 months of chemical specific test results on file with the Department in accordance with the statistical approach outlined in Chapter 530. The statistical evaluation indicated the discharge has one (1) test result for arsenic that exceeds the human health consumption criteria for water and organisms, one (1) test result for cadmium that has a reasonable potential to exceed the chronic AWQC, three (3) test results for copper that have a reasonable potential to exceed the acute AWQC, and one (1) test result for lead that exceeds the chronic AWQC. The statistical evaluation further revealed mass-based exceedences for arsenic (HHWO) and lead (chronic AWQC). All other parameters evaluated do not exceed or have a reasonable potential to exceed acute, chronic or human health AWQC.

Based on the 05/27/09 statistical evaluation, the AWQC and/or human health criteria critical reasonable potentials to exceed and exceed thresholds are as follows:

Parameter	AWQC / Human Health Criteria		Exceedence / RP threshold
Arsenic	Human Health (W/O):	0.012 ug/L	0.56 ug/L (E)
Cadmium	Chronic AWQC:	0.08 ug/L	0.7 ug/L (RP)
Copper	Acute AWQC:	3.07 ug/L	7.3 ug/L (RP)
Lead	Chronic AWQC:	0.41 ug/L	6.6 ug/L (E)

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

Based on the criteria above, the following test results in the most recent 60-months have a reasonable potential to exceed or exceed AWQC or human health criteria.

Date	Parameter	Test result
07/15/08	Arsenic	5.0 ug/L
07/15/08	Cadmium	1.0 ug/L
10/12/04	Copper	7.5 ug/L
01/03/07	Copper	10.0 ug/L
06/21/05	Copper	11.0 ug/L
06/21/05	Lead	7.0 ug/L

Chapter 530 §(3)(D) states "Expression of effluent limits. Where the need for effluent limits has been determined, limits derived from acute water quality criteria must be expressed as daily maximum values. Limits derived from chronic or human health criteria must be expressed as monthly average values." Therefore, this permit establishes daily maximum end-of-pipe (EOP) mass and concentration limits for copper and monthly average limits for arsenic, cadmium, and lead. The derivation for these limits is as follows:

Arsenic (inorganic)

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
HHWO Criteria = 0.012 ug/L Harmonic mean dilution factor = 62:1

Chronic EOP = [62 x 0.75 x 0.012 ug/L] + [0.25 x 0.012 ug/L] = 0.56 ug/L

Based on a monthly average design flow of 0.48 MGD as used in other effluent limits, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Monthly Avg. Mass Limit	Daily Maximum
Arsenic	0.56 ug/L	0.0022 lbs/day	N/A

Calculation: Chronic - $\frac{(0.56 \text{ ug/L})(8.34)(0.48 \text{ MGD})}{1000 \text{ ug/mg}} = 0.0022$ lbs/day

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

Cadmium

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
Chronic Criteria = 0.08 ug/L Chronic dilution factor = 21:1

Chronic EOP = [21 x 0.75 x 0.08 ug/L] + [0.25 x 0.08 ug/L] = 1.28 ug/L

Based on a monthly average design flow of 0.48 MGD as used in other effluent limits, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Monthly Avg. Mass Limit	Daily Maximum
Cadmium	1.28 ug/L	0.005 lbs/day	N/A

Calculation: Chronic - $\frac{(1.28\ ug/L)(8.34)(0.48\ MGD)}{1000\ ug/mg} = 0.005$ lbs/day

Copper (total)

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
Acute Criteria = 3.07 ug/L Modified acute dilution factor = 6:1

Acute EOP = [6 x 0.75 x 3.07 ug/L] + [0.25 x 3.07 ug/L] = 14.58 ug/L

Based on a monthly average design flow of 0.48 MGD as used in other effluent limits, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Monthly Avg. Mass Limit	Daily Maximum
Copper	14.58 ug/L	N/A	0.058 lbs/day

Calculation: Acute - $\frac{(14.58\ ug/L)(8.34)(0.48\ MGD)}{1000\ ug/mg} = 0.058$ lbs/day

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

Lead (total)

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
Chronic Criteria = 0.41 ug/L Chronic dilution factor = 21:1

Chronic EOP = [21 x 0.75 x 0.41 ug/L] + [0.25 x 0.41 ug/L] = 6.56 ug/L

Based on a monthly average design flow of 0.48 MGD as used in other effluent limits, EOP mass limits are as follows:

Parameter	Calculated EOP Concentrations	Monthly Avg. Mass Limit	Daily Maximum
Lead	6.56 ug/L	0.026 lbs/day	N/A

Calculation: Chronic - $\frac{(6.56 \text{ ug/L})(8.34)(0.48 \text{ MGD})}{1000 \text{ ug/mg}}$ = 0.026 lbs/day

Chapter 530 §(3)(D)(1) states "*For specific chemicals, effluent limits must be expressed in total quantity that may be discharged and in effluent concentration. In establishing concentration, the Department may increase allowable values to reflect actual flows that are lower than permitted flows and/or provide opportunities for flow reductions and pollution prevention provided water quality criteria are not exceeded. With regard to concentration limits, the Department may review past and projected flows and set limits to reflect proper operation of the treatment facilities that will keep the discharge of pollutants to the minimum level practicable.*" So as not to penalize the permittee for operating at flows less than the monthly average design flow (see Section 6a of this Fact Sheet for historic flow information), the Department is establishing concentration limits based on a factor of 1.5. Therefore, concentration limits for the parameters of concern in this permit are as follows:

Parameter	Calculated EOP Concentration	Monthly Avg. Conc. Limit	Daily Max. Conc. Limit
Cadmium	1.28 ug/L	2 ug/L	---
Copper	14.58 ug/L	---	22 ug/L
Lead	6.56 ug/L	9 ug/L	---

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

It is noted the calculations for establishing limitations for inorganic arsenic on page 17 do not increase the EOP concentration for inorganic arsenic by a factor of 1.5 due to uncertainty of the ratio between organic and inorganic fractions of total arsenic. However, the Department has given the permittee some flexibility by evaluating possible exceedences using the rebuttable presumption that the effluent contains a ratio of 50% inorganic arsenic and 50% organic arsenic in total arsenic results. In other words, the equivalent total arsenic concentration threshold has been increased by a factor of 2.0. Refer to the discussion and calculations on page 22 of this Fact Sheet.

Chapter 530 does not establish specific monitoring frequencies for parameters that exceed or have a reasonable to exceed AWQC. This permitting action is establishing the monitoring requirement frequencies for the parameters above based on BPJ given the timing, frequency and severity of the exceedences and reasonable potentials to exceed AWQC. For arsenic, cadmium, copper, and lead, the Department is establishing the monitoring frequencies at 2/year based on best professional judgment that routine surveillance level monitoring is sufficient to determine on-going compliance with the HHWO and AWQC.

With the exceptions of arsenic, cadmium, copper, and lead, monitoring frequency requirements for priority pollutant and analytical testing in this permitting action are based on the Chapter 530 rule. Chapter 530 §(2)(D)(3)(c) states in part that Level II facilities "*…may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence.*" It is noted Chapter 530 §(2)(D)(1) does not require priority pollutant testing during the surveillance level testing years. Based on the results of the 05/27/09 statistical evaluation, the permittee qualifies for the reduced testing. Accordingly, surveillance level analytical chemistry would be established as follows:

Beginning upon issuance of this permit and lasting through 12 months prior to permit expiration.

Level	Analytical Chemistry
II	1/2 Years

For screening level testing, Chapter 530 §(2)(D)(1) requires that beginning 12 months prior to the expiration date of the permit, chemical testing shall be conducted at a frequency of 1/Year for priority pollutant testing and 1/Quarter for analytical chemistry. Therefore, screening level chemical would be established as follows:

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

Screening level testing – Beginning 12 months prior to permit expiration and lasting through permit expiration and every five years thereafter.

Level	Priority Pollutant Testing	Analytical Chemistry
II	1 per year	4 per year

However, as Oakland's wastewater discharge to the Rice Rips impoundment shall be eliminated within two years of the effective date of this permitting action, corresponding to the timeframe in which this permitting action shall expire, the Department is only establishing testing requirements for those parameters demonstrating a reasonable potential to exceed or exceedence of AWQM or Human Health criteria, based on BPJ.

It is noted however that if future WET or chemical testing indicates the discharge exceeds critical water quality thresholds or AWQC, this permit will be reopened pursuant to Special Condition N, *Reopening of Permit For Modification*, to establish applicable limitations and monitoring requirements. In addition, if future test results of concern fall outside the 60-month evaluation timeframe or a sufficient number of tests removes the reasonable potential to exceed AWQC, the permittee may request a modification of the permit to remove applicable limitations and or reduce the monitoring frequency.

In the case of exceedences of applicable water quality criteria, Chapter 530(3)(C) requires that within forty-five (45) days of the effective date of the permit, the permittee shall submit to the Department for review and approval, a Toxicity Reduction Evaluation (TRE) plan which outlines a strategy to identify the source(s) and action items to be implemented to eliminate those exceedences. As noted above, Oakland's testing revealed exceedences of human health criteria associated with arsenic and AWQC associated with lead. This permitting action establishes effluent limitations and monitoring frequency requirements for these parameters at the default surveillance level testing frequency requirement of twice per year. Based on the conditions described herein related to the pending elimination of the Rice Rips impoundment discharge, abbreviated term of this permit, and based upon Department BPJ, the Department has determined that these requirements meet the requirements of a Phase I TRE and that no further TRE requirements are necessary unless additional testing indicates further exceedences of applicable criteria.

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

Total / Inorganic Arsenic: The Department notes that special circumstances surround the establishment of effluent limits and monitoring requirements for arsenic. Department rule Chapter 530 (C)(6) states:

> *All chemical testing must be carried out by approved methods that permit detection of a pollutant at existing levels in the discharge or that achieve detection levels as specified by the Department. When chemical testing results are reported as less then, or detected below the Department's specified detection limits, those results will be considered as not being present for the purposes of determining exceedences of water quality criteria.*

The USEPA has not approved a test method for inorganic arsenic as of the date of issuance of this permit. Therefore, there is no way for the permittee to formally demonstrate compliance with the monthly average water quality based mass and concentration limits for inorganic arsenic established in this permitting action. As a result, Special Condition M, *Schedule of Compliance* of this permit establishes a schedule of compliance for the limitations and monitoring requirements for inorganic arsenic beginning upon issuance of this permit and lasting through the date in which the USEPA approves a test method for inorganic arsenic. Once a test method is approved, the Department will notify the permittee in writing and the limitations and monitoring requirements for inorganic arsenic become effective thereafter.

As of the date of this permitting action, the Department has limited data on the percentage of inorganic arsenic (approximately 50%) in total arsenic test results. Based on a literature search conducted by the Department, the inorganic fraction can range from 1% - 99% depending on the source of the arsenic. Generally speaking, ground water supplies derived from bedrock wells will likely to tend to have higher fractions of inorganic arsenic (As^{+3}-arsentite and/or As^{+5}- arsenate) than one may find in a food processing facility where the inorganic fraction is low and the organic fraction (arsenobetaine, arsenoribosides) is high. Until the Department and the regulated community in Maine develops a larger dataset to establish statistically defensible ratios of inorganic and organic fractions in total arsenic test results, the Department is making a rebuttable presumption that the effluent contains a ratio of 50% inorganic arsenic and 50% organic arsenic in total arsenic results.

Being that the only approved test methods for compliance with arsenic limits established in permits is for total arsenic, the Department converted the water quality based end-of pipe monthly average concentration value of 0.56 ug/L for inorganic arsenic calculated above into an equivalent total arsenic threshold (assuming 50% of the total arsenic is inorganic arsenic). This results in a total arsenic end-of-pipe monthly average concentration threshold of 1.1 ug/L. The calculation is as follows:

$$\frac{0.56 \text{ ug/L inorganic arsenic}}{0.5 \text{ ug/L inorganic arsenic} / 1.0 \text{ ug/L total arsenic}} = 1.1 \text{ ug/L total arsenic}$$

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

Therefore, a total arsenic value greater than 1.1 ug/L is potentially exceeding the water quality based end-of pipe monthly average concentration value of 0.56 ug/L for inorganic arsenic. However, the Department's most current reporting limit (RL) for total arsenic is 5 ug/L and may be subject to revision during the term of this permit. All detectable analytical test results shall be reported to the Department including results which are detected below the Department's most current RL at the time of sampling and reporting. Only the results greater than the total arsenic threshold of 1.1 ug/L or the Department's RL at the time of sampling (whichever is higher) will be considered a potential exceedence of the inorganic limit of 0.56 ug/L.

If a test result is determined to be a potential exceedence, the permittee shall submit a toxicity reduction evaluation (TRE) to the Department for review and approval within 45 days of receiving the test result of concern from the laboratory. Contact the Department's compliance inspector for a copy of the Department's December 2007 guidance on conducting a TRE for arsenic.

Maine law, 38 M.R.S.A., §414-A(2), Schedules of Compliance states "*Within the terms and conditions of a license, the department may establish a schedule of compliance for a final effluent limitation based on a water quality standard adopted after July 1, 1977. When a final effluent limitation is based on new or more stringent technology-based treatment requirements, the department may establish a schedule of compliance consistent with the time limitations permitted for compliance under the Federal Water Pollution Control Act, Public Law 92-500, as amended. A schedule of compliance may include interim and final dates for attainment of specific standards necessary to carry out the purposes of this subchapter and must be as short as possible, based on consideration of the technological, economic and environmental impact of the steps necessary* to attain those standards."

Special Condition M, *Schedule of Compliance*, of this permit establishes a schedule as follows:

> *Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic are not in effect. During this time frame, the permittee is required by Special Condition A, Effluent Limitations and Monitoring Requirements, of this permit to conduct 2/year sampling and analysis for total arsenic.*
>
> *Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.*

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

Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, *Schedules of Compliance* sub-§3, *Interim dates*, states in part, "*if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.*

(i) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

(ii)If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

Special Condition A, *Effluent Limitations and Monitoring Requirements*, of this permit requires that beginning upon issuance of this permit and lasting through USEPA approval of a test method for inorganic arsenic, the permittee shall conduct 2/year monitoring for total arsenic. Should the test method approval for inorganic arsenic extend more than one year from the date of the issuance of this permit, the sampling and analysis for total arsenic will serve to satisfy the interim requirements specified by Department rule, Chapter 523, *Waste Discharge License Conditions*, Section 7, *Schedules of Compliance*, Sub-section 3, *Interim dates.*

j. Mercury: Pursuant to Maine law, 38 M.R.S.A. §420 and Department rule, 06-096 CMR Chapter 519, *Interim Effluent Limitations and Controls for the Discharge of Mercury*, the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL # W-002690 by establishing interim monthly average and daily maximum effluent concentration limits of 4.5 parts per trillion (ppt) and 6.8 ppt, respectively, and a minimum monitoring frequency requirement of four tests per year for mercury. The interim mercury limits were scheduled to expire on October 1, 2001. However, effective June 15, 2001, the Maine Legislature enacted Maine law, 38 M.R.S.A. §413, sub-§11 specifying that interim mercury limits and monitoring requirements remain in effect. It is noted that the mercury effluent limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as the limits and monitoring frequencies are regulated separately through Maine law, 38 M.R.S.A. §413 and Department rule Chapter 519. The interim mercury limits remain in effect and enforceable and modifications to the limits and/or monitoring frequencies will be formalized outside of this permitting document pursuant to Maine law, 38 M.R.S.A. §413 and Department rule Chapter 519.

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

A review of the monitoring data for the Oakland facility for the period of July 2005 through December 2008 indicates the following. It is noted that the Department's records contain one result that exceeded interim limits, but that result caused the average of values to also exceed the interim limits. Oakland believes that the maximum value, attributed to testing conducted in October 2005, is incorrect. However, given the length of time that has elapsed and as this belief can not be substantiated, the result must be considered valid.

MERCURY CONCENTRATION (OUTFALL #001A)

Minimum	Maximum	Average	#Values
<1 ppt	<200 ppt	9.35 ppt	26

k. Disposal of Septage Waste: The Oakland facility is not designed nor approved to receive septage into the wastewater treatment facility.

7. AMBIENT WATER QUALITY MONITORING (AWQM)

Previous permitting and licensing actions have established requirements for ambient water quality monitoring in the Rice Rips impoundment based on on-going concerns with impacts from Oakland's wastewater discharge. Though these ambient concerns are still present, the Department's Division of Watershed Management feels that additional ambient water quality monitoring can be suspended in consideration of the pending elimination of the Rice Rips impoundment discharge.

However, if the discharge is not eliminated pursuant to the deadline required in this permitting action, the Department may take action to require the permittee to monitor dissolved oxygen, Secchi disk water transparency, and total phosphorus at the sampling locations and depths specified in the previous permitting action at a frequency of twice per month between June 1 and September 30, or other monitoring requirements as determined necessary and appropriate.

8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY:

As permitted, the Department has determined based on best professional judgement that the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody to meet standards for Class GPA classification. However, pursuant to Maine law (38 M.R.S.A. §465-A(1)(C) and based upon the identification of a practical alternative to the facility's wastewater discharge to a Class GPA water, this permitting action establishes a Schedule of Compliance (Permit Special Condition M.2) to provide for elimination of the Rice Rips impoundment discharge.

9. PUBLIC COMMENTS:

Public notice of this application was made in the Morning Sentinel newspaper on or about October 19, 2005. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

10. DEPARTMENT CONTACTS:

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

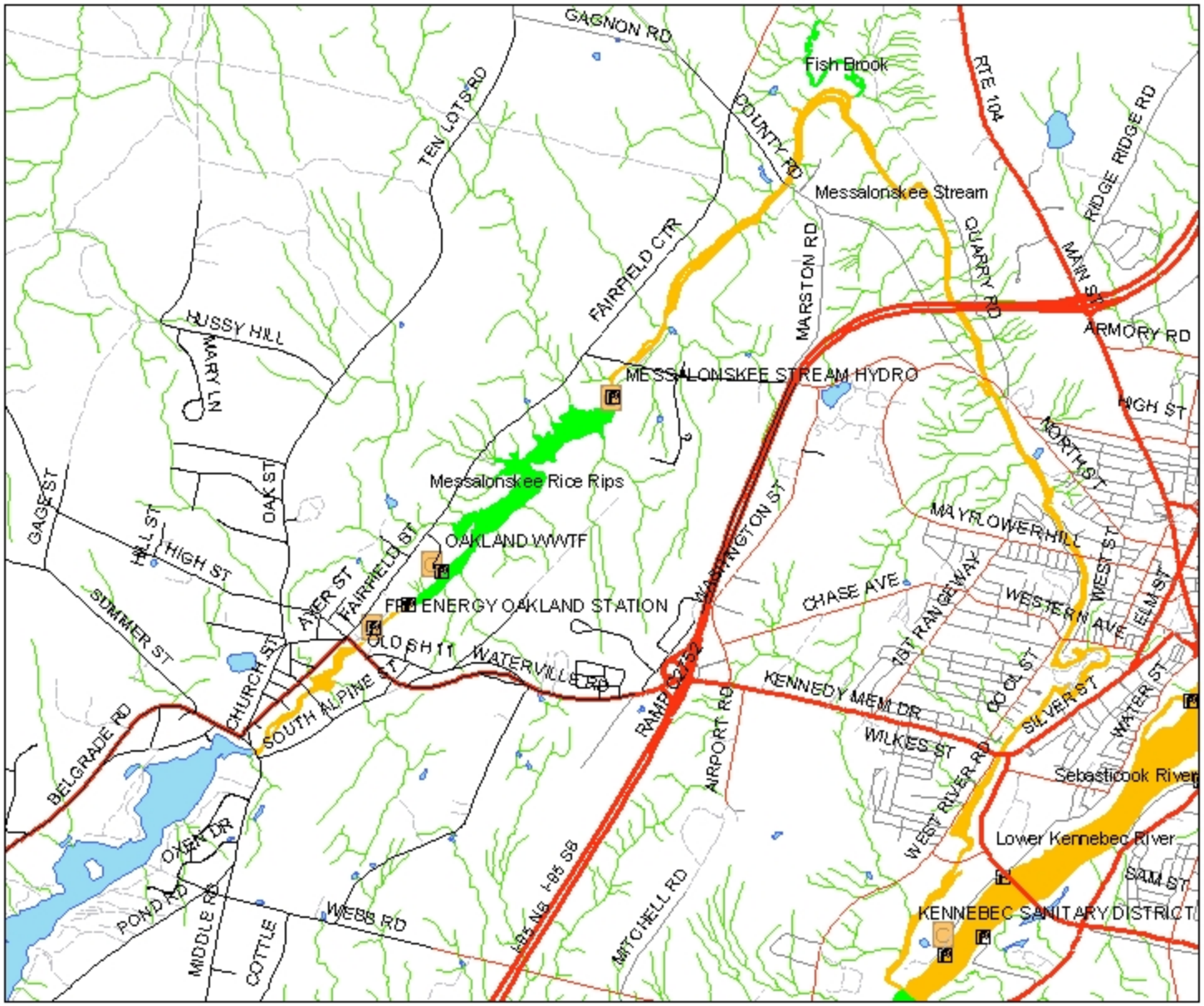
Robert D. Stratton
Division of Water Quality Management
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Telephone (207) 287-6114
Fax (207) 287-3435
email: Robert.D.Stratton@maine.gov

11. RESPONSE TO COMMENTS:

During the period of May 27, 2009 through June 26, 2009, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit / Maine Waste Discharge License to be issued to the Town of Oakland for the proposed discharge. The Department did not receive any comments that resulted in significant revisions to the permit, but made some minor internal revisions. Therefore, no response to comments has been prepared.

ATTACHMENT A



Legend

Rivers
- AA
- A
- B
- C

Streams
- AA
- A
- B
- C

- Ponds and Lakes
- Wastewater_Facilities
- Wastewater_Outfalls

Roads

JURISDICTION
- Town Road
- Town Road - Summer
- Town Road - Winter
- State-aided Highway
- State Highway
- Toll Highway
- Private Road
- Reservation Road
- Seasonal Parkway

N

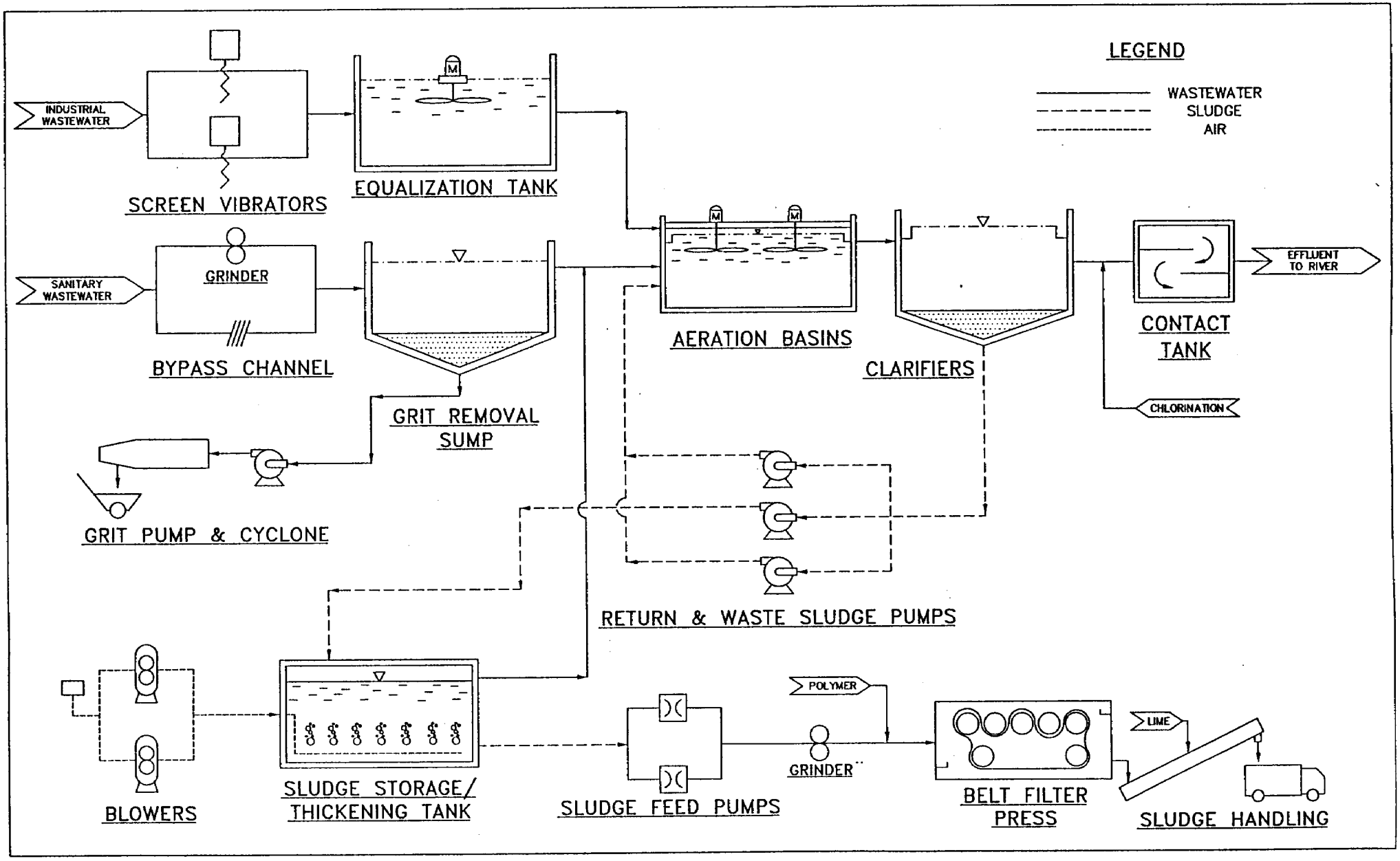
Miles
0 0.2 0.4 0.8 1.2 1.6

Oakland WWTF
Oakland, Maine

Map created by:
Bob Stratton
Division of Water Quality Management
Maine Department of Environmental Protection

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF MAINE

ATTACHMENT B



OAKLAND POTW

ATTACHMENT C

FATHEAD

A_NOEL Minimum test result:>100.000%
With RP factor: **>16.129%**

State License Limit: %

EPA License Limit : %

# of samples: 1
cv = 0.6
RP factor = 6.2
Avg. result: 100.000%

Date of minimum test: 06/21/2005

Dilution Limit: 4.717 %
16.529 % (25% flow)

FATHEAD

C_NOEL Minimum test result: 100.000%
With RP factor: 16.129%

State License Limit: %

EPA License Limit : %

# of samples: 1
cv = 0.6
RP factor = 6.2
Avg. result: 100.000%

Date of minimum test: 06/21/2005

Dilution Limit: 4.717 %

FATHEAD

LC50 Minimum test result:>100.000%
With RP factor: >16.129%

State License Limit: %

EPA License Limit : %

# of samples: 1
cv = 0.6
RP factor = 6.2
Avg. result: 100.000%

Date of minimum test: 06/21/2005

TROUT

A_NOEL Minimum test result:>100.000%
With RP factor: >33.333%

State License Limit: %

EPA License Limit : %

# of samples: 3
cv = 0.6
RP factor = 3.0
Avg. result: 100.000%

Date of minimum test: 10/05/2004

Dilution Limit: 4.717 %
16.529 % (25% flow)

TROUT

C_NOEL Minimum test result: 50.000%
With RP factor: 16.667%

State License Limit: %

EPA License Limit : %

# of samples: 3
cv = 0.6
RP factor = 3.0
Avg. result: 83.333%

Date of minimum test: 10/05/2004

Dilution Limit: 4.717 %

Bold indicates Water Quality Exceedance only, refer to license limits for permit compliance

TROUT

LC50 Minimum test result:>100.000%
With RP factor: >26.316%

State License Limit: %

EPA License Limit : %

# of samples: 2
cv = 0.6
RP factor = 3.8
Avg. result: 100.000%

Date of minimum test: 10/05/2004

WATER FLEA

A_NOEL Minimum test result:>100.000%
With RP factor: >38.462%

State License Limit: %

EPA License Limit : %

# of samples: 4
cv = 0.6
RP factor = 2.6
Avg. result: 100.000%

Date of minimum test: 10/05/2004

Dilution Limit: 4.717 %
16.529 % (25% flow)

WATER FLEA

C_NOEL Minimum test result: 50.000%
With RP factor: 19.231%

State License Limit: %

EPA License Limit : %

# of samples: 4
cv = 0.6
RP factor = 2.6
Avg. result: 75.000%

Date of minimum test: 10/05/2004

Dilution Limit: 4.717 %

WATER FLEA

LC50 Minimum test result:>100.000%
With RP factor: >33.333%

State License Limit: %

EPA License Limit : %

# of samples: 3
cv = 0.6
RP factor = 3.0
Avg. result: 100.000%

Date of minimum test: 10/05/2004

Species	Test	Test Result %	Sample Date
WATER FLEA	A_NOEL	30	06/23/1992
WATER FLEA	LC50	>30	06/23/1992
WATER FLEA	A_NOEL	<30	06/24/1992
WATER FLEA	A_NOEL	50	07/07/1992
WATER FLEA	LC50	>100	07/07/1992
WATER FLEA	A_NOEL	100	08/20/1992
WATER FLEA	C_NOEL	100	08/20/1992
WATER FLEA	LC50	>100	08/20/1992
WATER FLEA	A_NOEL	100	09/01/1992
WATER FLEA	LC50	>100	09/01/1992
WATER FLEA	A_NOEL	100	10/21/1992
WATER FLEA	LC50	>100	10/21/1992
WATER FLEA	A_NOEL	100	06/10/1993
WATER FLEA	C_NOEL	50	06/10/1993
WATER FLEA	LC50	>100	06/10/1993
WATER FLEA	A_NOEL	100	07/20/1993
WATER FLEA	LC50	>100	07/20/1993
WATER FLEA	A_NOEL	100	08/12/1993
WATER FLEA	C_NOEL	50	08/12/1993
WATER FLEA	LC50	>100	08/12/1993
WATER FLEA	A_NOEL	100	09/01/1993
WATER FLEA	LC50	>100	09/01/1993
WATER FLEA	A_NOEL	100	10/05/1993
WATER FLEA	LC50	>100	10/05/1993
WATER FLEA	A_NOEL	100	08/09/1995
WATER FLEA	C_NOEL	100	08/09/1995
WATER FLEA	LC50	>100	08/09/1995
WATER FLEA	A_NOEL	100	09/25/1995
WATER FLEA	LC50	>100	09/25/1995
TROUT	A_NOEL	100	10/10/1995
TROUT	C_NOEL	25	10/10/1995
TROUT	LC50	>100	10/10/1995
FATHEAD	A_NOEL	100	09/25/1996
FATHEAD	C_NOEL	100	09/25/1996
FATHEAD	LC50	>100	09/25/1996
WATER FLEA	A_NOEL	100	09/25/1996
WATER FLEA	C_NOEL	100	09/25/1996
WATER FLEA	LC50	>100	09/25/1996
FATHEAD	A_NOEL	100	11/14/1996
FATHEAD	C_NOEL	100	11/14/1996
FATHEAD	LC50	>100	11/14/1996
TROUT	A_NOEL	100	11/14/1996

Species	Test	Test Result %	Sample Date
TROUT	C_NOEL	100	11/14/1996
TROUT	LC50	>100	11/14/1996
WATER FLEA	A_NOEL	100	11/14/1996
WATER FLEA	C_NOEL	100	11/14/1996
WATER FLEA	LC50	>100	11/14/1996
FATHEAD	A_NOEL	100	09/25/1997
FATHEAD	LC50	>100	09/25/1997
TROUT	A_NOEL	100	09/25/1997
TROUT	C_NOEL	100	09/25/1997
TROUT	LC50	>100	09/25/1997
WATER FLEA	A_NOEL	100	09/25/1997
WATER FLEA	LC50	>100	09/25/1997
FATHEAD	A_NOEL	100	09/10/1998
FATHEAD	LC50	>100	09/10/1998
TROUT	A_NOEL	100	09/10/1998
TROUT	C_NOEL	50	09/10/1998
TROUT	LC50	>100	09/10/1998
WATER FLEA	A_NOEL	25	09/10/1998
WATER FLEA	C_NOEL	12.5	09/10/1998
WATER FLEA	LC50	35.4	09/10/1998
FATHEAD	A_NOEL	100	11/01/1999
FATHEAD	C_NOEL	100	11/01/1999
FATHEAD	LC50	>100	11/01/1999
TROUT	A_NOEL	100	11/01/1999
TROUT	C_NOEL	100	11/01/1999
TROUT	LC50	>100	11/01/1999
WATER FLEA	A_NOEL	100	11/01/1999
WATER FLEA	C_NOEL	50	11/01/1999
WATER FLEA	LC50	>100	11/01/1999
FATHEAD	A_NOEL	100	09/21/2000
FATHEAD	C_NOEL	100	09/21/2000
FATHEAD	LC50	>100	09/21/2000
TROUT	A_NOEL	100	09/21/2000
TROUT	C_NOEL	100	09/21/2000
TROUT	LC50	>100	09/21/2000
WATER FLEA	A_NOEL	100	09/21/2000
WATER FLEA	C_NOEL	100	09/21/2000
WATER FLEA	LC50	>100	09/21/2000
TROUT	A_NOEL	100	09/24/2001
TROUT	C_NOEL	12.5	09/24/2001
TROUT	LC50	>100	09/24/2001
WATER FLEA	A_NOEL	100	09/24/2001

Species	Test	Test Result %	Sample Date
WATER FLEA	C_NOEL	100	09/24/2001
WATER FLEA	LC50	>100	09/24/2001
TROUT	A_NOEL	>100	10/09/2003
TROUT	C_NOEL	50	10/09/2003
TROUT	LC50	>100	10/09/2003
WATER FLEA	A_NOEL	88.8	10/09/2003
WATER FLEA	C_NOEL	100	10/09/2003
WATER FLEA	LC50	>100	10/09/2003
TROUT	A_NOEL	>100	10/05/2004
TROUT	C_NOEL	50	10/05/2004
TROUT	LC50	>100	10/05/2004
WATER FLEA	A_NOEL	>100	10/05/2004
WATER FLEA	C_NOEL	50	10/05/2004
WATER FLEA	LC50	>100	10/05/2004
FATHEAD	A_NOEL	>100	06/21/2005
FATHEAD	C_NOEL	100	06/21/2005
FATHEAD	LC50	>100	06/21/2005
WATER FLEA	A_NOEL	>100	06/21/2005
WATER FLEA	C_NOEL	100	06/21/2005
WATER FLEA	LC50	>100	06/21/2005
TROUT	A_NOEL	>100	10/12/2005
TROUT	C_NOEL	100	10/12/2005
TROUT	LC50	>100	10/12/2005
WATER FLEA	A_NOEL	>100	10/12/2005
WATER FLEA	C_NOEL	50	10/12/2005
WATER FLEA	LC50	>100	10/12/2005
TROUT	A_NOEL	>100	10/23/2007
TROUT	C_NOEL	100	10/23/2007
WATER FLEA	A_NOEL	>100	10/23/2007
WATER FLEA	C_NOEL	100	10/23/2007

Wet Test Sample Dates

OAKLAND

MESSALONSKEE STREAM

06/23/1992	2
06/24/1992	1
07/07/1992	2
08/20/1992	3
09/01/1992	2
10/21/1992	2
06/10/1993	3
07/20/1993	2
08/12/1993	3
09/01/1993	2
10/05/1993	2
08/09/1995	3
09/25/1995	2
10/10/1995	3
09/25/1996	6
11/14/1996	9
09/25/1997	7
09/10/1998	8
11/01/1999	9
09/21/2000	9
09/24/2001	6
10/09/2003	6
10/05/2004	6
06/21/2005	6
10/12/2005	6
10/23/2007	4

ATTACHMENT D

Sample Date: 10/13/2005
Plant flows not provided

Total Tests: 124

Missing Compounds: 0

Tests With High DL: 1

M = 1 V = 0 A = 0

BN = 0 P = 0 other = 0

PP Data for "Hits" Only

OAKLAND

MESSALONSKEE STREAM

ARSENIC

MDL = 5 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	5.000000	OK	07/15/2008	10/27/2008
<	3.000000	OK	10/23/2007	03/05/2008
<	5.000000	OK	10/03/2006	04/15/2007
<	5.000000	OK	10/13/2005	12/20/2005
<	5.000000	OK	05/23/2007	09/21/2007

CADMIUM

MDL = 1 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	1.000000	OK	07/15/2008	10/27/2008
<	0.500000	OK	10/23/2007	03/05/2008
<	1.000000	OK	10/13/2005	12/20/2005
<	1.000000	OK	10/05/2004	01/13/2005
<	1.000000	OK	05/23/2007	09/21/2007
<	1.000000	OK	10/12/2004	01/05/2006
<	1.000000	OK	06/21/2005	10/17/2005
<	1.200000	HI	10/03/2006	04/15/2007

COPPER

MDL = 3 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	5.000000	OK	10/05/2004	01/13/2005
	6.000000	OK	07/15/2008	10/27/2008
	6.000000	OK	10/23/2007	03/05/2008
	7.500000	OK	10/12/2004	01/05/2006
	10.000000	OK	01/03/2007	04/15/2007
	11.000000	OK	06/21/2005	10/17/2005
<	3.000000	OK	10/13/2005	12/20/2005

LEAD

MDL = 3 ug/l

	Conc, ug/l	MDL	Sample Date	Date Entered
	3.000000	OK	07/15/2008	10/27/2008
	7.000000	OK	06/21/2005	10/17/2005
<	3.000000	OK	10/05/2004	01/13/2005
<	3.000000	OK	10/23/2007	03/05/2008
<	3.000000	OK	05/23/2007	09/21/2007
<	3.000000	OK	10/13/2005	12/20/2005
<	3.000000	OK	10/03/2006	04/15/2007
<	5.000000	HI	10/12/2004	01/05/2006

Priority Pollutant Scan Sample Dates

OAKLAND

MESSALONSKEE STREAM

10/05/2004	18
10/12/2004	18
06/21/2005	18
07/07/2005	1
10/13/2005	124
02/10/2006	1
02/28/2006	1
03/21/2006	1
04/10/2006	1
04/27/2006	1
05/18/2006	1
06/15/2006	1
07/12/2006	1
07/27/2006	1
08/31/2006	1
09/28/2006	1
10/03/2006	4
10/12/2006	1
10/30/2006	1
12/21/2006	1
01/03/2007	1
01/18/2007	1
03/22/2007	1
05/02/2007	1
05/23/2007	4
07/31/2007	1
10/23/2007	19
10/31/2007	1
03/12/2008	1
07/15/2008	5
07/16/2008	1
09/24/2008	1
11/13/2008	1
12/08/2008	1

CONTENTS

A. GENERAL PROVISIONS

1. **General compliance**. All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. Other materials. Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

(a) They are not

(i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
(ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

3. Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
(b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

4. Duty to provide information. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

5. Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. Reopener clause. The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

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

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

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

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

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

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

maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

(b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.

(c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.

(d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.

(e) The permittee shall install flow measuring facilities of a design approved by the Department.

(f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Bypasses.

(a) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(C) The permittee submitted notices as required under paragraph (c) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;
(ii) The permitted facility was at the time being properly operated; and
(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(c) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;
(ii) The individual(s) who performed the sampling or measurements;
(iii) The date(s) analyses were performed;
(iv) The individual(s) who performed the analyses;
(v) The analytical techniques or methods used; and
(vi) The results of such analyses.

(d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.

(e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

D. REPORTING REQUIREMENTS

1. Reporting requirements.

(a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(f) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
(B) Any upset which exceeds any effluent limitation in the permit.
(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);
(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

(b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following ``notification levels'':

(i) Five hundred micrograms per liter (500 ug/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

(a) All POTWs must provide adequate notice to the Department of the following:

(i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
(ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
(iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

(a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.

(b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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

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

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

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

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

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

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

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

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

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

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

Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004 **Contact: (207) 287-2811**

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

1. *Aggrieved Status*. Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

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

ADDITIONAL INFORMATION

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

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.