



STATE OF MAINE  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PAUL MERCER  
COMMISSIONER

December 20, 2016

Ms. LeeAnna Libby  
Great Salt Bay Sanitary District  
P.O. Box 23  
Damariscotta, ME. 04543  
[leeanna@gsbsd.org](mailto:leeanna@gsbsd.org)

*RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102431  
Maine Waste Discharge License (WDL) Application #W00744-6B-I-R  
MEPDES Permit Renewal*

Dear Ms. Libby:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **renewal** which was approved by the Department of Environmental Protection. Please read this permit/license renewal and its attached conditions carefully. Compliance with this permit/license will protect water quality.

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 446-1875.

Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Rodney Robert  
Division of Water Quality Management  
Bureau of Water Quality

cc:

Beth DeHaas, DEP  
Lori Mitchell, MDEP  
Olga Vergara, USEPA  
Richard Carvalho, USEPA  
Marelyn Vega, USEPA

Sandy Mojica, USEPA

AUGUSTA  
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PRESQUE ISLE, MAINE 04769  
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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION AUGUSTA, ME 04333-0017

DEPARTMENT ORDER

DEPARTMENT ORDER

IN THE MATTER OF

GREAT SALT BAY SANITARY DISTRICT	)	MAINE POLLUTANT DISCHARGE
NOBLEBORO, LINCOLN COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS	)	AND
DAMARISCOTTA MILLS PLANT	)	WASTE DISCHARGE LICENSE
ME0102431	)	
W007044-6B-I-R	)	
APPROVAL	)	RENEWAL

In compliance with the provision of the *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, *Conditions of licenses*, 38 M.R.S. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the GREAT SALT BAY SANITARY DISTRICT (GSBSD), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The GSBSD submitted a complete application to the Department to renew combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102431/ Maine Waste Discharge License (WDL) #W007044-5L-G-R (permit hereinafter), which was issued by the Department on April 20, 2011. The 4/20/11 MEPDES permit/WDL (permit hereinafter) authorized the discharge of up to a monthly average flow of 0.015 million gallons per day (MGD) of secondary treated sanitary waste water from a municipal waste water treatment facility. The waste water treatment facility is referred to as the "Damariscotta Mills" sand filter system and discharges to the Damariscotta River Estuary "Great Salt Bay", Class SB, in Nobleboro, Maine.

PERMIT SUMMARY

This permit is carrying forward all the terms and conditions of the previous permitting action except that this permit:

1. Establishes a once per year monitoring frequency for pH pursuant to 40 CFR 122.44(i)(2).
2. Establishes an assumed influent concentration value of 286 mg/L when testing for percent removal of BOD and TSS.
3. Revises language in Special Condition I, Monitoring and Reporting.
4. Revises the monitoring frequency for Settleable Solids.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated December 20, 2016, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

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

**ACTION**

THEREFORE, the Department APPROVES the above noted application of the GREAT SALT BAY SANITARY DISTRICT to discharge up to a monthly average flow of 0.015 million gallons per day (MGD) of secondary treated municipal waste waters to the Damariscotta River Estuary, Class SB, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations, including:

1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits," revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit becomes effective upon the date of signature below and expires at midnight five (5) years after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. *Maine Administrative Procedure and Services*, 5 M.R.S. § 10002 and Rules Concerning the *Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended October 19, 2015).

~~DONE AND DATED AT AUGUSTA, MAINE, THIS~~ 20<sup>th</sup> ~~DAY OF~~ December, 2016.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

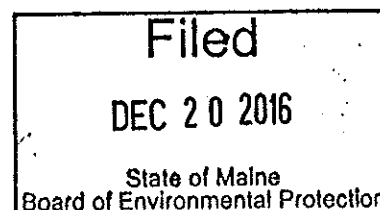
BY: Michael Kuhn  
for Paul Mercer, Commissioner

PLEASE NOTE ATTACHED FACT SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: January 25, 2016.

Date of application acceptance: January 25, 2016.

Date filed with Board of Environmental Protection \_\_\_\_\_



## SPECIAL CONDITIONS

## A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

## 1. OUTFALL #001A – Final Effluent

The permittee is authorized to discharge secondary treated sanitary wastewater from OUTFALL #001A to the Damariscotta River Estuary. Such discharges must be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	0.0150 MGD [03]	---	Report MGD [03]	---	---	---	Continuous [99/99]	Meter [MT]
Biochemical Oxygen Demand [00310]	2.8 lb/day [26]	4.2 lb/day [26]	4.6 lb/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
BOD <sub>5</sub> Percent Removal <sup>(1)</sup> [81010]	---	---	---	85%	---	---	---	Calculate
Total Suspended Solids [00530]	2.8 lb/day [26]	4.2 lb/day [26]	4.6 lb/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Grab [GR]
TSS Percent Removal <sup>(1)</sup> [81011]	---	---	---	85%	---	---	---	Calculate
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Month [01/30]	Grab [GR]
Fecal Coliform Bacteria <sup>(2)</sup> [31616] (May 15 – September 30)	---	---	---	15/100 ml <sup>(3)</sup> [13]	---	50/100 ml [13]	1/Week [01/07]	Grab [GR]
Total Residual Chlorine <sup>(4)</sup> [50060]	---	---	---	---	---	1.0 mg/L [19]	1/Week [01/07]	Grab [GR]
pH (Std. Unit) <sup>(5)</sup> [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	1/Year [01/365]	Grab [GR]
Mercury (Total) <sup>(6)</sup> [50286]	---	---	---	5.7 ng/L [3M]	---	15.1 ng/L [3M]	1/Year [01/YR]	Grab [GR]

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

## **SPECIAL CONDITIONS**

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

#### Footnotes:

#### Sampling Locations:

**Effluent sampling-** Samples for pH, fecal coliform bacteria, total residual chlorine and settleable solids must be collected from the sampling valve located in the final effluent monitoring/chlorination pit. Samples for BOD and TSS must be collected from the six-inch sand filter collection pipe located in the chlorine contact/pump station.

Any change in sampling location(s) must be reviewed and approved by the Department in writing.

**Sampling** - Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are analyzed by laboratories operated by wastewater discharge facilities licensed pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.

## SPECIAL CONDITIONS

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

#### Footnotes:

1. **Percent Removal** - The permittee must maintain a minimum of 85 percent removal of both BOD<sub>5</sub> and TSS for all flows receiving secondary treatment. The percent removal must be calculated based on influent and effluent concentration values. The permittee's wastewater treatment system does not contain an influent sampling location that is representative of raw wastewater conditions. Therefore, this permitting action authorizes the permittee to assume an influent BOD<sub>5</sub> and TSS concentration value of 286 mg/L for purposes of calculating the monthly percent removal value. See page 8 of fact sheet for a basis statement.
2. **Fecal coliform bacteria** - Limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to impose year-round disinfection to protect the health and welfare of the public.
3. **Fecal coliform bacteria** - Monthly Average is to be calculated and reported as a geometric mean.
4. **Total Residual Chlorine (TRC)** - The limitations apply at the treatment plant's effluent pump station. Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee must utilize approved test methods that are capable of bracketing the limitations in this permit.
5. **pH** - Effluent pH results outside the range of 6.0 - 9.0 standard units are not to be reported as exceptions provided the cause(s) for the exceedance(s) are naturally occurring. The permittee must provide the Department with written documentation as to the cause(s) of the pH results if found outside the 6.0 - 9.0 range.
6. **Mercury** - The permittee must conduct all mercury monitoring required by this permit or required to determine compliance with interim limitations established pursuant to 06-096 CMR 519 in accordance with the U. S. Environmental Agency's (USEPA) "clean sampling techniques" found in USEPA Method 1669, *Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels*. All mercury analysis must be conducted in accordance with USEPA Method 1631, *Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry*. See **Attachment A** of this permit for a Department report form for mercury test results. Compliance with the monthly average limitation established in Special Condition A of this permit will be based on the cumulative arithmetic mean of all mercury tests results that were conducted utilizing sampling Method 1669 and analysis Method 1631E on file with the Department for this facility.

## **SPECIAL CONDITIONS**

### **B. NARRATIVE EFFLUENT LIMITATIONS**

1. The effluent must 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 must not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharge must 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. PROHIBITION OF NON-DOMESTIC USERS**

The wastewater collection and treatment system may not be used to collect, treat or discharge wastewater other than from domestic users. The permittee is not authorized to receive transported wastes for treatment.

### **D. TREATMENT PLANT OPERATOR**

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



## **SPECIAL CONDITIONS**

### **E. NOTIFICATION REQUIREMENT**

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

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

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### **F. AUTHORIZED DISCHARGES**

The permittee is authorized to discharge only in accordance with; 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on January 25, 2016; 2) the terms and conditions of this permit, and 3) only from Outfall #001. Discharges of wastewater from any other point source are not authorized under this permit, and must be reported in accordance with Standard Condition B(5), Bypasses, of this permit.

### **G. OPERATION & MAINTENANCE (O&M) PLAN**

The permittee must maintain a current written comprehensive Operation & Maintenance (O&M) Plan. The plan must provide a systematic approach by which the permittee must 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 must 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 must be kept on-site at all times and made available to Department and other regulatory personnel upon request.

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

## SPECIAL CONDITIONS

### H. SEPTIC TANKS

1. Septic tanks and other treatment tanks must be regularly inspected and maintained to ensure that they are providing best practicable treatment. The permittee must maintain logs of inspections/maintenance that records the date, notes on observations, repairs conducted etc. The logs must be maintained on site at all times and made available to Department personnel upon request.
2. Tank contents must be removed whenever the sludge and scum occupies one-third of the tank's liquid capacity or whenever levels approach maximum design capacity. Following pumping, the tanks must be checked for damage at key joints and the inlet and outlet baffles, and repaired promptly if damaged. The permittee must keep a pumping log including the date of pumping, quantity of material removed, name and number of licensed contractor, and pumping frequency.

### I. MONITORING AND REPORTING

#### Electronic Reporting

*NPDES Electronic Reporting*, 40 C.F.R. 127, requires MEPDES permit holders to submit monitoring results obtained during the previous month on an electronic discharge monitoring report to the regulatory agency utilizing the USEPA electronic system.

Electronic Discharge Monitoring Reports (DMRs) submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and
2. Submitted no later than **midnight on the 15<sup>th</sup> day of the month** following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Toxics reporting must be done using the DEP toxsheet reporting form. An electronic copy of the Toxsheet reporting document must be submitted to the assigned Department compliance inspector as an attachment to an email. In addition, a hardcopy form of this sheet must be signed and submitted to the assigned compliance inspector, or a copy attached to the NetDMR submittal will suffice. Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15<sup>th</sup> day of the month following the completed reporting period.

## **SPECIAL CONDITIONS**

### **J. REOPENING OF PERMIT FOR MODIFICATIONS**

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

### **L. 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 must remain in full force and effect, and must 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

8/18/2016

MERCURY REPORT - Clean Test Only

Data Date Range: 18/Aug/2011-18/Aug/2016



Facility: GSBSD, DAMARISCOTTA MILLS

Permit Number: ME0102431

Max (ng/l): 15.1000

Average (ng/l): 5.7104

Sample Date	Result (ng/l)	Lsthan	Clean
11/29/2011	3.70	N	T
07/11/2012	4.73	N	T
10/17/2013	4.24	N	T
04/29/2014	3.40	N	T
04/29/2015	3.71	N	T

*Last permit cycle*

11/18/2016

## MERCURY REPORT - Clean Test Only

Data Date Range: 18/Nov/1998-18/Aug/2016



Facility: GREAT SALT BAY SANITARY DISTRICT (NOBLEBORO) Permit Number: ME0102431

Max (ng/l): 15.1000

Average (ng/l): 5.9313

Sample Date	Result (ng/l)	Lsthan	Clean
09/29/1999	10.60	N	T
11/04/1999	7.45	N	T
02/29/2000	5.13	N	T
10/27/2000	5.28	N	T
06/18/2001	7.60	N	T
10/17/2001	5.78	N	T
09/27/2002	8.23	N	T
12/20/2002	9.83	N	T
09/16/2003	7.58	N	T
11/21/2003	4.95	N	T
03/26/2004	5.30	N	T
12/20/2004	6.47	N	T
05/19/2005	15.10	N	T
08/29/2005	4.32	N	T
02/17/2006	3.28	N	T
06/05/2007	7.70	N	T
09/28/2007	3.47	N	T
10/17/2008	3.80	N	T
05/29/2009	4.40	N	T
10/27/2009	3.50	N	T
05/17/2010	3.52	N	T
08/23/2010	3.72	N	T
06/09/2011	3.10	N	T
11/29/2011	3.70	N	T
07/11/2012	4.73	N	T
10/17/2013	4.24	N	T
04/29/2014	3.40	N	T
04/29/2015	3.71	N	T

*All historic testing 98-14*

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

**FACT SHEET**

**Date: December 20, 2016**

**PERMIT NUMBER: ME0102431**

**LICENSE NUMBER: W007044-6B-I-R**

**NAME AND MAILING ADDRESS OF APPLICANT:**

**GREAT SALT BAY SANITARY DISTRICT  
P.O. Box 23  
Damariscotta, ME 04543**

**COUNTY: Lincoln County**

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**NAME AND ADDRESS OF FACILITY:**

**Damariscotta (Mills Facility)  
Bayview Road  
Nobleboro, Maine**

**RECEIVING WATER/ CLASSIFICATION: Damariscotta River Estuary /Class SB**

**COGNIZANT OFFICIAL AND TELEPHONE NUMBER: LeeAnna Libby,  
Wastewater Division Manager  
(207) 563-5105  
E-Mail: [LEEANNA@GSBSD.org](mailto:LEEANNA@GSBSD.org)**

## 1. APPLICATION SUMMARY

- a. Application: The Great Salt Bay Sanitary District (GSBSD/permittee hereinafter) has submitted a timely and complete application to the Department to renew combination Maine Pollutant Discharge Elimination System (MEPDES) permit#ME0102431/ Maine Waste Discharge License (WDL) #W007044-5L-G-R (permit hereinafter), which was issued by the Department on April 20, 2011. The MEPDES permit/WDL (permit hereinafter) authorized the discharge of up to a monthly average flow of 0.015 million gallons per day (MGD) of secondary treated sanitary waste water from a municipal waste water treatment facility. The waste water treatment facility is referred to as the "Damariscotta Mills" sand filter system and discharges to the Damariscotta River Estuary "Salt Bay", Class SB, in Nobleboro, Maine. See **Attachment A** of this Fact Sheet for location map.
- b. Source Description – The sand filter system serves a small outlying residential section known as Damariscotta Mills. The wastewater treatment system serves a total of 59 residences of which 6 are not yet connected to the system as of the date of this permitting action. Of the remaining 53 residences, 9 are seasonal dwellings.

In 1997, the GSBSD added ten residences to the system by extending the sewer line along Route 215 across the Damariscotta Lake "Mill Pond" bridge and into the Town of Newcastle. The construction was funded in part by the Department's Small Community Grants program. This added 550 feet of 8-inch sewer interceptor, a submersible pumping station (at the Mill Bridge), 250 feet of 3-inch force main, with a 5,000 gallon septic tank that serves only the immediate neighborhood of ten of the residences. Individual septic tanks serve 46 residences; three residences are served by one of the 2,000 gallon tanks. The second 2,000-gallon tank serves the Mill Pond Inn on the Nobleboro side of the bridge. An additional pumping station is located at the intersection of Ladds and Bayview Roads. Lake Side and Bayview pump stations along with the influent and effluent pumps for the sand filters are monitored with radio telemetry.

- c. Waste Water Treatment - The GSBSD provides a secondary level of wastewater treatment via a combination of settling in individual septic tanks, one five thousand (5,000) gallon septic tank and two, two thousand (2,000) gallon septic tanks, and biological treatment which is achieved through a covered sand filter bed system. The permittee reports the tanks are pumped once every three years on a rotating basis, with the exception of the second 2,000-gallon tank serving a Bed & Breakfast which is pumped once per year. A general layout of the sand filter system is shown in **Attachment B** of this Fact Sheet.

Wastewater collected from the individual septic tanks is pumped to two 106' x 52' sand filter beds that are operated in the alternating mode. The effluent is chlorinated (sodium hypochlorite) prior to discharge. The chemical feed disinfection system replaced an ultraviolet light system in 1990. The applicant reports dechlorination was abandoned in 1999 following a dye study showing the effluent dilution factor is 1000:1 or greater at the end of the outfall pipe.



## 1. APPLICATION SUMMARY (cont'd)

Chlorinated effluent is pumped approximately 500 feet through a 4" polyethylene outfall pipe into the main channel of the Damariscotta River Estuary. The final 50 feet of the pipe is a diffuser with fifteen-1/2" diameter perforations serving as ports to enhance mixing with the receiving waters. The perforated pipe is encased in a five-foot deep bed of crushed stone and rip-rap with approximately six feet of water over the crown of the pipe at mean low tide.

The sand filter system is not authorized to receive transported waste for treatment.

## 2. PERMIT SUMMARY

- a. Terms and conditions – This permit is carrying forward all the terms and conditions of the previous permitting action except that this permit:
1. Establishes a once per year monitoring frequency for pH pursuant to 40 CFR 122.44(i)(2).
  2. Establishes an assumed influent concentration value of 286 mg/L when testing for percent removal of BOD and TSS.
  3. Revises language in Special Condition I, Monitoring and Reporting.
  4. Revises the monitoring frequency for Settleable Solids

- b. History – The most recent relevant regulatory actions pertaining to the GSBSD facility include, but are not limited to, the following:

*December 30, 1991* - The U.S. Environmental Protection Agency (EPA) renewed National Pollutant Discharge Elimination System (NPDES) permit #ME0101516. The permit served to permit both the main plant discharge in Damariscotta (outfall 001) and the sand filter discharge in Damariscotta Mills (outfall 002).

*June 5, 1996* - The Department issued WDL #W007044-58-D-R increasing the monthly average flow limit from 11,000 gallons per day to 15,000 gallons per day. The sand filter system was first licensed by the Department in 1986, the year it was built. For a more complete licensing history see WDL #W007044-58-D-R.

*December 13, 1996* - The EPA modified NPDES permit #ME0101516 in accordance with the existing WDL and the Section 401 water quality certification requirements issued by the Department.

*July 29, 1999* - The Department administratively modified WDL #W007044-58-D-R to include a footnote regarding the reporting of effluent pH results.

*January 12, 2001* - The Department received authorization from EPA to administer the NPDES program in Maine. From that point forward the program has been referred to as the MEPDES permit program and this permit has been assigned #ME0102431. The MEPDES permit replaced the NPDES permit #ME0101516 (outfall 002) issued by EPA on December 30, 1991 and modified on December 13, 1996.

## 2. PERMIT SUMMARY (cont'd)

*July 12, 2001* – The Department issued combination MEPDES permit #ME0102431/ WDL #W007044-5L-E-R for a four and one half year term.

*April 11, 2006* – The Department issued combination MEPDES permit #ME0102431/ WDL #W007044-5L-E-R for a five-year term.

*April 20, 2011* – The Department issued combination MEPDES permit #ME0102431/ WDL #W007044-5L-G-R for a five-year term.

*January 25, 2016* – The GSBSD submitted a timely and complete application to renew the MEPDES permit for the Damariscotta Mill's facility.

## 3. CONDITIONS OF PERMITS

Maine law, 38 M.R.S. 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., 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

*Classification of estuarine and marine waters*, 38 M.R.S. § 469(3-A) classifies all estuarine and marine waters lying within the boundaries of Lincoln County and that are not otherwise classified, which includes the Great Salt Bay at the point of discharge, as Class SB waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S. § 465(B)(2) establishes classification standards for Class SB waters.

## 5. RECEIVING WATER CONDITIONS

*The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report*, prepared by the Department pursuant to Sections 303(d) and 305(b) of the *Federal Water Pollution Control Act* lists the Upper Damariscotta River at the point of discharge as:

Category 2: *Estuarine and Marine Waters Attaining Some Designated Uses, Insufficient Information for Other Uses*. Impairment in this context is in regard to the designated use of harvesting of shellfish which is prohibited due to proximity to a Sewage Treatment Plant outfall.

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

Currently, the Maine Department of Marine Resources (DMR) shellfish harvesting Area 23-A, Upper Damariscotta River (Newcastle, Nobleboro, Damariscotta) is closed to the harvesting of shellfish. See **Attachment C** of this Fact Sheet for Area 23-A. DMR closes or restricts areas based on ambient water quality data that indicate the area did not meet or marginally met the standards in the National Shellfish Sanitation Program. In addition, DMR closes areas by default in the vicinity of outfall pipes associated with treated sanitary wastewater discharges in the event of a failure of the disinfection system. Therefore, Area 22 F remains closed as of the date of this permitting action.

Category 5-D: *Estuarine and Marine Waters Impaired by Legacy Pollutants*. All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D, partially supporting fishing ("shellfish" consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomalley.

**The Department has no information that the discharge from the permittee, as conditioned, causes or contributes to non-attainment of applicable Class SB water quality standards.**

## 6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. **Flow:** The previous permitting action established a monthly average flow limitation of 0.0150 MGD that is being carried forward in this permitting action as it is representative of the current monthly average design flow capacity of the facility.

A review of the monthly Discharge Monitoring Report (DMR) data for the period August 2011 through July 2016 indicates values have been reported as follows;

**Flow (DMRs=58)**

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly average	0.0150	0.007 – 0.01	0.007
Daily maximum	Report	0.01 – 0.21	0.020

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

b. Dilution Factors: Department Regulation Chapter 530 *Surface Water Toxics Control Program*, §4(A)(2) states:

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

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

(b) *For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.*

~~(c) *In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor.*~~

In September of 1999, Bigelow Laboratory for Ocean Sciences conducted a dye study to determine the effluent dilution from the Damariscotta Mills facility. In their November 1999 report they concluded that "the effluent is highly diluted in Salt Bay, with most areas exhibiting dilution rates between 1:1000 and 1:10,000 [*understood by the Department to be 1000:1 and 10,000:1*] or greater at both high tides and low tides on a day with 12,000 gallons of effluent discharged". Therefore, for purposes of this permitting action, the chronic dilution rates for this discharge are presumed to be 1000:1 or greater.

The 1999 report further states that "Higher concentrations to 40 ppb (100 to 1000 times dilution) were found...within 50 to 100 yards of the outfall...at low tide". This would correspond to the near field acute dilution zone so that the acute dilution would be between 100:1 and 1000:1.

For the purposes of this permitting action the Department is carrying forward the dilution factors from the previous permitting actions as follows:

Acute - 100:1

Chronic - 1,000:1

Harmonic mean<sup>(1)</sup> - 3,000:1

Footnote:

(1) See Chapter 530 §4(A)(2)(c) above.

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

- c. Biochemical Oxygen Demand (BOD5) & Total Suspended Solids (TSS): - This permitting action carries forward the previously established monthly and weekly average BOD5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L respectively, that are based on secondary treatment requirements of the Clean Water Act of 1977 §301(b)(1)(B) as defined in 40 CFR Part 133.102 and Department rule Chapter 525(3)(III). The maximum daily BOD5 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.

As for mass limitations, the previous permitting action established monthly average, weekly average and daily maximum limitations based on a monthly average flow 0.011 MGD that are being carried forward in this permitting action. A flow of 0.011 MGD was utilized in the calculations as this was the original flow limitation established in the first licensing action. The permittee has requested to carry forward the limits for BOD and TSS from the previous permitting action. The limitations were derived as follows:

Monthly average:  $(0.0110 \text{ MGD})(8.34)(30 \text{ mg/L}) = 2.8 \text{ lbs/day}$

Weekly average:  $(0.0110 \text{ MGD})(8.34)(45 \text{ mg/L}) = 4.2 \text{ lbs/day}$

Daily maximum:  $(0.0110 \text{ MGD})(8.34)(50 \text{ mg/L}) = 4.6 \text{ lbs/day}$

A review of the monthly Discharge Monitoring Report (DMR) data for the period August 2011 through July 2016 indicates values have been reported as follows;

### BOD Mass (DMRs=58)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	2.8	0.15 – 2.43	0.428
Weekly Average	4.2	0.08 – 3.67	0.550
Daily Maximum	4.6	0.04 – 3.67	0.620

### BOD Concentration (DMRs=58)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	2 – 19	8.91
Weekly Average	45	2 – 23	9.98
Daily Maximum	50	2 – 23	9.96

### TSS mass (DMRs=58)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	2.8	0.02 – 0.40	0.054
Weekly Average	4.2	<0.02 – 0.60	0.08
Daily Maximum	4.6	<0.02 – 1.00	0.183

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

**TSS concentration (DMRs=58)**

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	0.05 - 4	1.96
Weekly Average	45	0.30 - 6.0	2.05
Daily Maximum	50	0.30 - 6.0	2.047

This permitting action is carrying forward the requirement for 85% removal for BOD and TSS pursuant to Department rule Chapter 525(3)(III)(a&b)(3). The facility does not have a location where true representative sampling of influent that has not received any biological treatment can occur. Therefore, the facility is authorized to use the assumed value of 286 mg/L.

Monitoring frequencies for BOD and TSS of 2/Month are being carried forward from the previous permitting action and are based on long standing Department guidance for facilities with a monthly average flow limitation between 0.0 MGD and 0.100 MGD.

- d. Settleable Solids - The previous permit established a daily maximum concentration BPT limit of 0.3 ml/L that is being carried forward in this permitting action. A review of the monthly Discharge Monitoring Report (DMR) data for the period August 2011 through July 2016 indicates values have been reported as follows;

**Settleable solids (DMRs=58)**

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	<0.1- 1.0	<0.116

Based on excellent compliance history, this permitting action is reducing the monitoring frequency for Settleable Solids from twice per month to once per month.

- e. Fecal Coliform Bacteria - The previous permitting action established monthly average and daily maximum limits of 15 colonies/100 ml and 50 colonies/100 ml and are based on the Maine Water Classification Program criteria for the receiving waters (including standards in the National Shellfish Sanitation Program) and requires application of the BPT technology. The limitations apply seasonally, from May 15 – September 30 of each year.

A review of the monthly Discharge Monitoring Report (DMR) data for the period August 2011 through July 2016 indicates values have been reported as follows;

**Fecal coliform bacteria (DMRs=24)**

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	15	<1.00 - 1	<1.00
Daily Maximum	50	<1.00 - 5	1

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

The monitoring frequency of 1/Week in the previous permitting action is being carried forward in the permitting action and is based on a long standing Department guidance for facilities permitted to discharge between 0.0 MGD and 0.1 MGD.

- f. Total Residual Chlorine - Limits on total residual chlorine (TRC) are specified to ensure attainment of the in-stream water quality criteria for levels of chlorine and that BPT technology is utilized to abate the discharge of chlorine. Permits issued by this Department impose the more stringent of the calculated water quality based or BPT based limits. The previous permitting action established a daily maximum limit of 1.0 mg/L. With dilution factors as determined above, water quality based thresholds for TRC may be calculated as follows:

Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Threshold	Chronic Threshold
13 ug/L	7.5 ug/L	100:1	1,000:1	1.3 mg/L	7.5 mg/L

Example calculation: Acute –  $0.013 \text{ mg/L} (100) = 1.3 \text{ mg/L}$

The Department's BPT limitation of 1.0 mg/l is more stringent than the calculated water quality based limit. Therefore, the BPT limitation of 1.0 mg/l is being carried forward from the previous permitting action along with the 1/Week monitoring requirement. It is noted TRC is currently measured at the effluent pump station and it is anticipated that substantial reduction in TRC values occurs prior to the actual discharge at the end of outfall pipe.

A review of the monthly Discharge Monitoring Report (DMR) data for the period August 2011 through July 2016 indicates values have been reported as follows;

### Total residual chlorine (DMRs=58)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.14 – 0.99	0.492

- g. pH – The previous permitting action established a pH range limitation of 6.0 –9.0 standard units (SU) pursuant to Department regulation, Chapter 525(3)(III)(c). The limits are considered BPT by the Department. In addition, during the previous permitting cycle the monitoring requirement had been suspended pursuant to Department rule Chapter 525(3)(III)(c) as excursions were due to natural causes and not from inorganic chemicals added to the waste stream as part of the treatment process or caused by contributions from industrial sources that would cause the pH to outside said range. Pursuant to 40 CFR 122.44(i)(2), this permitting action is establishing a once per year monitoring frequency for pH.

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

- h. Mercury: Pursuant to 38 M.R.S. §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 # W007044-5L-E-R by establishing interim monthly average and daily maximum effluent concentration limits of 12.4 parts per trillion (ppt) and 18.5 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. The interim mercury limits were scheduled to expire on October 1, 2001. However, effective June 15, 2001, the Maine Legislature enacted Maine law, 38 M.R.S. §413, sub-§11 specifying that interim mercury limits and monitoring requirements remain in effect. 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. §413 and Department rule Chapter 519.

Maine law 38 M.R.S., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413, subsection 11. A review of the Department's database for the previous 60-month period indicates mercury test results reported have ranged from 3.4 ppt to 4.73 ppt with an arithmetic mean (n=5) of 3.95 ppt.

- i. Whole Effluent Toxicity (WET) and priority pollutant testing - Maine law, 38 M.R.S., 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.



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

Chapter 530 §2(A)(1) that states

*The following dischargers are exempt from testing requirements of this rule unless the Department determines that there is a need for testing based on the nature, location or circumstances of an individual discharge.*

- (1) *Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility;*

Based on the criteria cited above, the GSBSD's Damariscotta Mills facility is not categorically subject to Chapter 530 testing requirements. However, should circumstances at the facility change such that the Department has a reason to believe the discharge has a reasonable potential to exceed ambient water quality criteria as established in Department rule Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, this permit may be reopened pursuant Special Condition J, *Reopening of Permit For Modifications*, to establish appropriate WET, priority pollutant and or analytical testing.

- j. Nitrogen: The permittee has not been conducting total nitrogen testing on its discharge to date. However, the USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards, namely algal blooms, in marine waters. As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for any of the nitrogen compounds. The Department has 50 total nitrogen data results collected on effluent from five municipally-owned treatment works and one industrial facility that discharge to Casco Bay. The mean discharge concentration was calculated to be 14.3 mg/L and is being considered by the Department as being representative of the total nitrogen concentration from a municipal wastewater treatment facility in the absence of facility specific effluent data.

Therefore, with an arithmetic mean total nitrogen discharge concentration of 14.3 mg/L and a near field dilution factor of 1,000:1 for the Great Salt Bay Sanitary District facility, an in-stream concentration can be calculated as follows:

Total nitrogen concentrations in effluent = 14.3 mg/L  
Chronic dilution factor = 1,000:1

In-stream concentration after dilution:  $\frac{14.3 \text{ mg/L}}{1,000} = 0.0143 \text{ mg/L}$

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

Because nitrogen is not acutely toxic, the Department is considering a far-field dilution to be more appropriate when evaluating impacts of total nitrogen to a marine environment. Far field dilutions are significantly higher than the near-field dilution, ranging from 100 – 10,000 times higher depending on the location of the outfall pipe. With outfalls located in protected coves or small embayments without significant flushing, the far field dilutions factors would tend to be on the order of 100 – 1,000 times higher. With open ocean discharges, far field dilutions would tend to be 1,000 – 10,000 times higher.

The in-stream concentration is less than the Department and USEPA's best professional judgment based total nitrogen threshold of 0.45 mg/L considered necessary to protect aquatic life in the receiving water, using dissolved oxygen as the indicator of whether this designated use is achieved. Therefore, the Department is making a best professional judgment determination that the discharge of total nitrogen from the permittee's facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters and, therefore, is not establishing a requirement for the facility to conduct testing.

## **7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY**

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

## **8. PUBLIC COMMENTS**

Public notice of this application was made in the Lincoln County News newspaper on or about January 25, 2016. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

## 9. DEPARTMENT CONTACTS

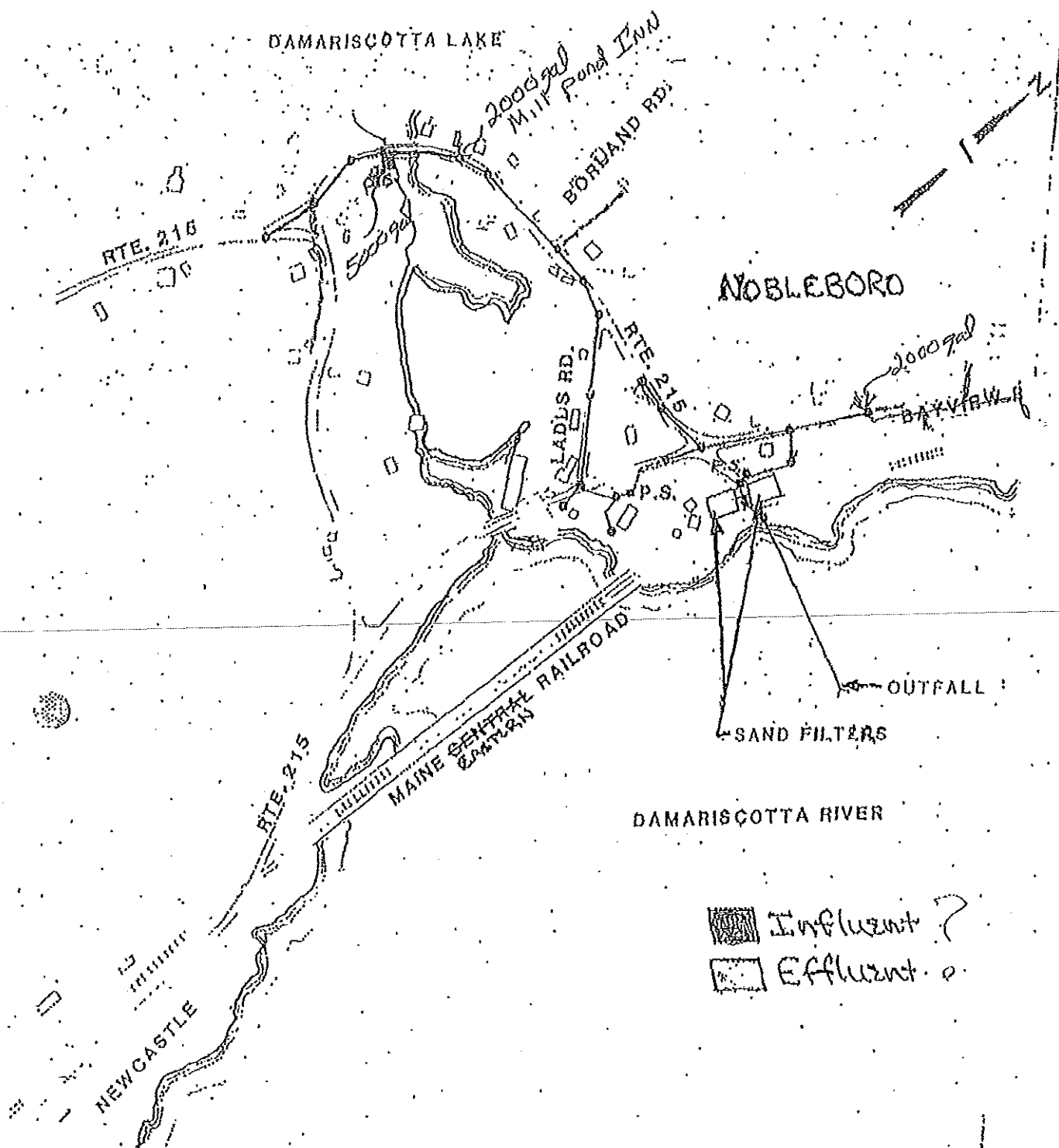
Additional information concerning this permitting action may be obtained from and written comments should be sent to:

Rod Robert  
Division of Water Quality Management  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333-0017  
(207) 446-1875  
E-mail [rodney.robert@maine.gov](mailto:rodney.robert@maine.gov)

## 10. RESPONSE TO COMMENTS

During the period of November 18, 2016 through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge from The Great Salt Bay Sanitary District. The Department did not receive comments from the permittee, state or federal agencies, or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

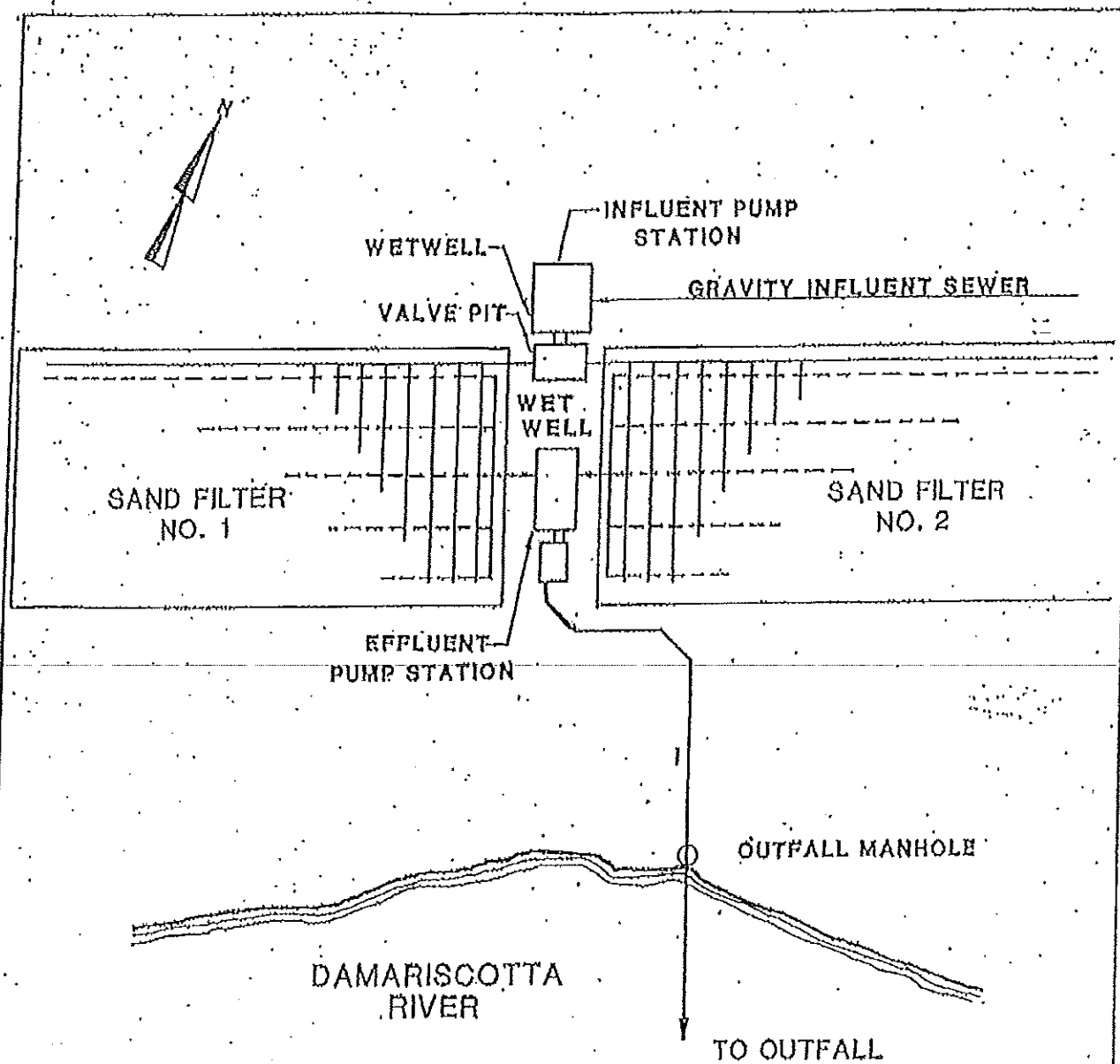
# ATTACHMENT A



## LOCATION PLAN

1" = 400'

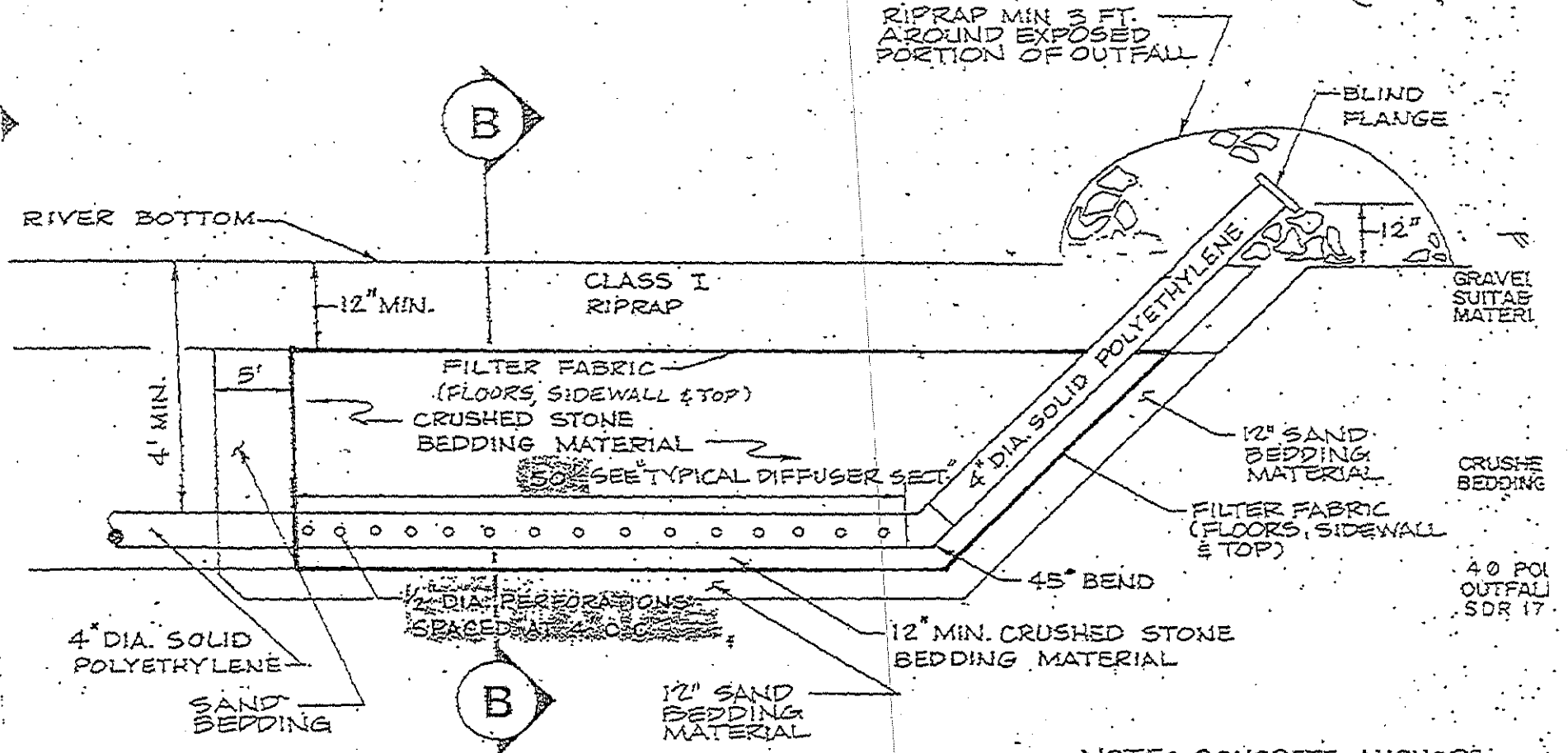
## ATTACHMENT B



GENERAL LAYOUT  
DAMARISCOTTA MILLS

# DETAIL OF DIFFUSER DISCHARGE

MADE IN MASSACHUSETTS (WILBROBORO)



## OUTFALL DETAIL

N.T.S.

NOTE: CONCRETE ANCHORS  
OMITTED FOR  
CLARITY



## ATTACHMENT C



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

PAUL R. LEPAGE  
GOVERNOR

PATRICK C. KELIHER  
COMMISSIONER

Shellfish Harvesting Area Classification-Notification of Changes

April 29, 2016

Ladies and Gentlemen:

Under the authority of Maine statute 12 M.R.S.A., Chapter 807, Section 6172; the Commissioner has made the following classification change to Area No. 23-A, Upper Damariscotta River (Newcastle, Nobleboro, Damariscotta): This notice reclassifies Days Cove from Restricted to Prohibited due to water quality no longer meeting Restricted standards. All existing pollution and red tide/psp closures remain in effect.

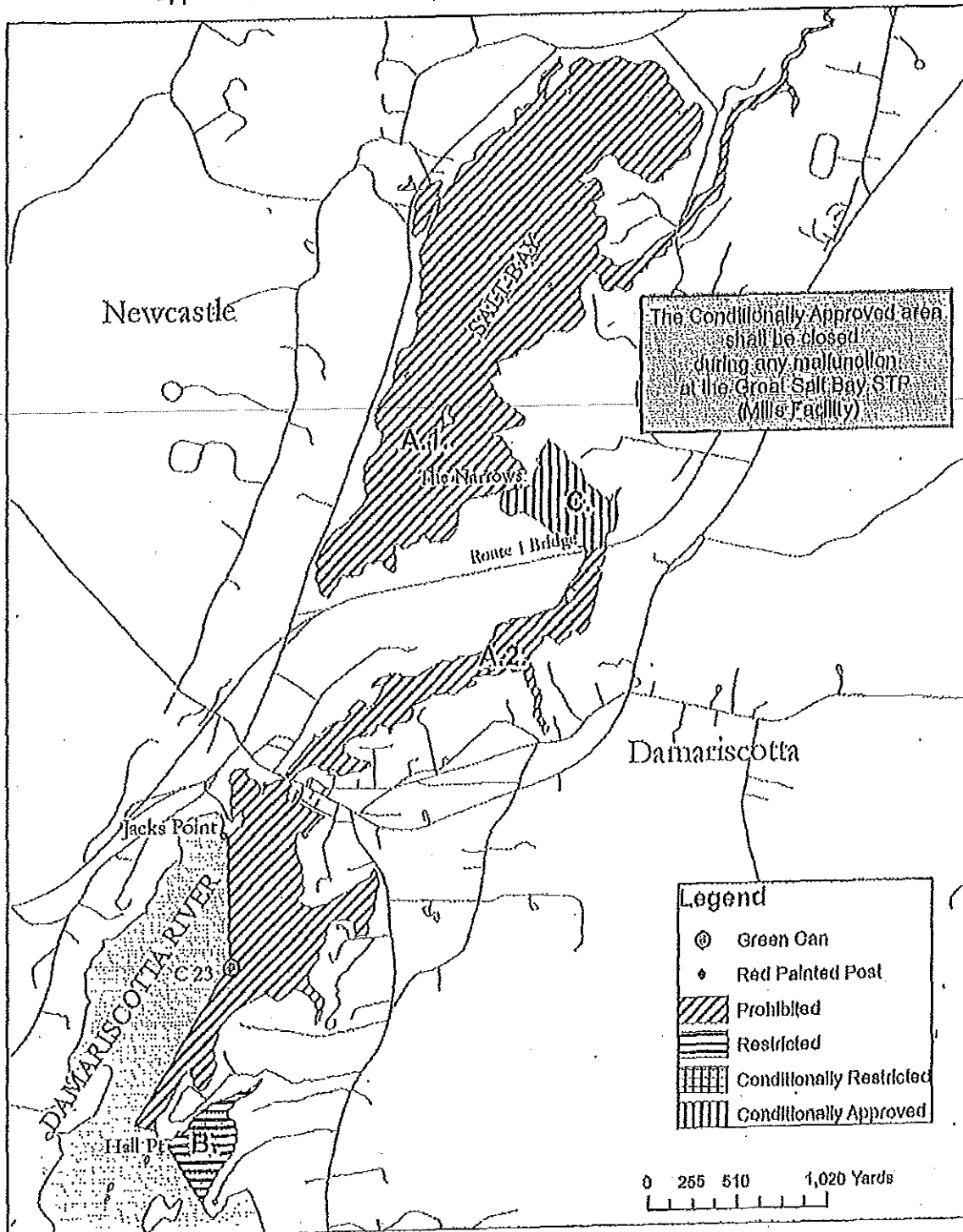
The boundary descriptions of the area are as follows (struck text is being removed and underlined text is being added):

- A. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the following Prohibited areas:
1. ~~Great Salt Bay (Newcastle, Nobleboro, Damariscotta), north of a line running west to east between two unnamed points of land, locally known as The Narrows, located approximately 600 yards north of the Route 1 bridge.~~
  2. ~~Damariscotta River (Newcastle, Damariscotta): south of the Route 1 bridge; AND north and east of a line beginning at a red painted post located on the southwest tip of Jacks Point (Newcastle), then running south to Green Can buoy #23, then running southwest to 300 feet approximately 91 yards west of the southwest tip of Hall Point (Damariscotta), then running east to the southwest tip of Hall Pt.; AND west of a line beginning due north of the end of Chase Point Lane (Damariscotta), then running northeast to the western tip of Norris Point (Damariscotta).~~
- B. Effective immediately because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the following Restricted area ~~without a special MDMR permit~~: Huston Cove (Damariscotta): north and east of a line beginning at the southwestern tip of Hall Point running southeast to the opposite shore, inside and shoreward of a line drawn across the mouth of Huston Cove, beginning at the southwest tip of Hall Point and running southeast to the next point of land. This area is classified Restricted and harvest requires a special MDMR permit.
1. ~~Days Cove (Damariscotta): east of a line beginning due north of the end of Chase Point Lane (Damariscotta), then running northeast to the western tip of Norris Point (Damariscotta).~~
  2. ~~Huston Cove (Damariscotta): east of a line beginning at the southwestern tip of Hall Point and running southeast to the opposite shore.~~
- C. Effective immediately, because of proximity to a Sewage Treatment Plant (STP) outfall, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels from the shores, flats and waters of the following Conditionally Approved area: the upper Damariscotta River south of a line running west to east between two unnamed points of land, locally known as The Narrows, located approximately 600 yards north of the Route 1 bridge; AND north of the Route 1 bridge during any malfunction of the Great Salt Bay STP (Mills Facility).
- C. ~~Effective immediately, because of pollution, the shores, flats and waters of the:~~ south of a line running between two unnamed points of land, locally known as The Narrows, located approximately 600 yards north of the Route 1 bridge; AND north of the Route 1 bridge; have been classified as "Conditionally Approved," and

April 29, 2015



**Maine Department of Marine Resources**  
*Pollution Area No. 23-A*  
Upper Damariscotta River (Newcastle, Nobleboro, Damariscotta)



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

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CONTENTS

SECTION	TOPIC	PAGE
A	GENERAL PROVISIONS	
1	General compliance	2
2	Other materials	2
3	Duty to Comply	2
4	Duty to provide information	2
5	Permit actions	2
6	Reopener clause	2
7	Oil and hazardous substances	2
8	Property rights	3
9	Confidentiality	3
10	Duty to reapply	3
11	Other laws	3
12	Inspection and entry	3
B	OPERATION AND MAINTENANCE OF FACILITIES	
1	General facility requirements	3
2	Proper operation and maintenance	4
3	Need to halt reduce not a defense	4
4	Duty to mitigate	4
5	Bypasses	4
6	Upsets	5
C	MONITORING AND RECORDS	
1	General requirements	6
2	Representative sampling	6
3	Monitoring and records	6
D	REPORTING REQUIREMENTS	
1	Reporting requirements	7
2	Signatory requirement	8
3	Availability of reports	8
4	Existing manufacturing, commercial, mining, and silvicultural dischargers	8
5	Publicly owned treatment works	9
E	OTHER PROVISIONS	
1	Emergency action - power failure	9
2	Spill prevention	10
3	Removed substances	10
4	Connection to municipal sewer	10
F	DEFINITIONS	10

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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### 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.

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**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).

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

### B. OPERATION AND MAINTENANCE OF FACILITIES

#### 1. General facility requirements.

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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
- (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
- (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
- (e) The permittee shall install flow measuring facilities of a design approved by the Department.
- (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

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

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

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

#### **5. Bypasses.**

##### **(a) Definitions.**

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

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

##### **(c) Notice.**

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

(d) Prohibition of bypass.

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

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

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

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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.



# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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### C. MONITORING AND RECORDS

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

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

**3. Monitoring and records.**

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed;
  - (iv) The individual(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

- (g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.
- (h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

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**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).

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (i) Five hundred micrograms per liter (500 ug/l);
  - (ii) One milligram per liter (1 mg/l) for antimony;
  - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

#### 5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
- (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
  - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

#### E. OTHER REQUIREMENTS

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

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

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

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

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

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

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

**Maximum daily discharge limitation** means the highest allowable daily discharge.

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

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

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

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

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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

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

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



# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

### SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner: (1) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

#### HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

#### HOW TO SUBMIT AN APPEAL TO THE BOARD

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

#### WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time submitted:



1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

#### OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

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

The Board will formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

## **II. JUDICIAL APPEALS**

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

### **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

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**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.**

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