



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR

GERALD D. REID  
COMMISSIONER

April 14, 2020

Mr. Edward. Montague  
Town of Mt. Desert  
P.O. Box 248  
Northeast Harbor ME 04459-0260  
[suptwwtp@mtdesert.org](mailto:suptwwtp@mtdesert.org)

*Sent via electronic mail  
Delivery confirmation requested*

**RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102555  
Maine Waste Discharge License (WDL) Application #W002657-6B-G-R  
Finalized License**

Dear Mr. Montague:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL which was approved by the Department of Environmental Protection. Please read this permit and its attached conditions carefully. Compliance with this 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 287-1939.

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,

Aaron Dumont  
Division of Water Quality Management  
Bureau of Water Quality  
ph: 207-287-1939

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

Edward Montague  
Seal Harbor  
April 14, 2020  
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Enc.

cc:

Gary Brooks, MEDEP  
Pamela Parker, MEDEP  
Lori Mitchell, MEDEP  
Ellen Weitzler, USEPA  
Alex Rosenberg, USEPA  
Marelyn Vega, USEPA  
Richard Carvalho, USEPA  
Shelley Puleo, USEPA



# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

**Dated: November 2018**

**Contact: (207) 287-2452**

### **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) an administrative process before the Board of Environmental Protection (Board); or (2) 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. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 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. §§ 341-D(4) & 346; the *Maine Administrative Procedure Act*, 5 M.R.S. § 11001; and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 C.M.R. ch. 2.

#### **DEADLINE 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 more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

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

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

### INFORMATION APPEAL PAPERWORK MUST CONTAIN

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

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant 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.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
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 matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

### 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, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an 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 general questions regarding the appeal process.
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. Unless a stay of the decision is requested and granted, 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, and will provide 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, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. 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, the 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. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and 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. 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. § 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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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF MT. DESERT (SEAL HARBOR)	)	MAINE POLLUTANT DISCHARGE
MOUNT DESERT, HANCOCK COUNTY, MAINE)		ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS	)	AND
ME0102555	)	WASTE DISCHARGE LICENSE
W002657-6C-G-R	)	<b>RENEWAL</b>
<b>APPROVAL</b>		

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

**APPLICATION SUMMARY**

On July 2, 2018, the Department accepted as complete for processing, a renewal application from the Town for the renewal of Waste Discharge License (WDL) W002657-6C-F-R /Maine Pollutant Discharge Elimination System (MEPDES) permit ME0102555, which was issued on January 7, 2014, for a five-year term. The 1/7/14 MEPDES permit authorized the Town to discharge of a monthly average flow of 0.25 million gallons per day (MGD) of secondary treated municipal wastewater from a publicly owned treatment works (POTW) facility to the Atlantic Ocean, Class SB, in Mount Desert, (Seal Harbor), Maine.

**PERMIT SUMMARY**

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

1. Eliminating the daily maximum concentration limit for copper based on a statistical evaluation for the most current 60 months of analytical chemistry and priority pollutant test results;
2. Increasing the monitoring frequency of Fecal coliform from seasonal to year-round starting on December 31<sup>st</sup>, 2020, and amending the monthly average and daily maximum limits to 14 CFU/100 mL 31 CFU/100, respectively; and
3. Establishing a seasonal monitoring requirement for Enterococci bacteria from April 15<sup>th</sup> – October 31<sup>st</sup> starting on April 15<sup>th</sup>, 2022. As well as establishing monthly average and daily maximum limits of 8 CFU/100 mL and 54 CFU/100 mL, respectively.

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## CONCLUSIONS

Based on the findings summarized in the attached and incorporated Fact Sheet dated March 13, 2020, and subject to the special and standard conditions that follow, 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, *Classification of Maine waters*, 38 M.R.S. § 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 natural resource, that water quality will be maintained and protected;
  - c. Where the standards of classification of the receiving waterbody are not met, the discharge will not cause or contribute to the failure of the waterbody to meet the standards of classification;
  - d. Where the actual quality of any classified receiving waterbody exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - e. Where a discharge will result in lowering the existing water quality of any waterbody, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D).

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**ACTION**

THEREFORE, the Department APPROVES the above noted application of the TOWN OF MOUNT DESERT to discharge a monthly average flow of 0.25 million gallons per day (MGD) of per day of secondary treated sanitary wastewater to the Atlantic Ocean, Class SB, in Mount Desert, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended June 9, 2018)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 13 DAY OF April 2020.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 

for GERALD D. REID, Commissioner

**FILED**

**APRIL 13, 2020**

**State of Maine  
Board of Environmental Protection**

Date filed with Board of Environmental Protection

Date of initial receipt of application: July 2, 2018

Date of application acceptance: July 2, 2018

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY



**SPECIAL CONDITIONS****A.1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

Beginning upon issuance of this permit, the permittee is authorized to discharge secondary treated municipal wastewater from a publicly owned treatment works via **OUTFALL #001A** to the Atlantic Ocean. Such discharges are limited and must be monitored by the permittee as specified below<sup>(1)</sup>.

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	0.25 MGD [03]	---	Report MGD [03]	---	---	---	Continuous [99/99]	Recorder [RC]
Biochemical Oxygen Demand BOD <sup>(2)</sup> [00310]	63 lbs./day [26]	94 lbs./day [26]	104 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Composite [24]
BOD <sub>5</sub> Percent Removal <sup>(3)</sup> [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Total Suspended Solids <sup>(2)</sup> [00530]	63 lbs./day [26]	94 lbs./day [26]	104 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	Composite [24]
TSS Percent Removal <sup>(3)</sup> [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Week [01/07]	Grab [GR]
Fecal Coliform Bacteria <sup>(2)(4)</sup> (Year-round starting December 31 <sup>st</sup> , 2020) [74055]	---	---	---	14/100 ml [13]	---	31/100 ml [13]	2/Month [02/30]	Grab [GR]
Enterococci Bacteria <sup>(5)</sup> (Seasonally April 15 <sup>th</sup> -October 31 <sup>st</sup> Beginning 2022) [61211]	---	---	---	8/100 ml [13]	---	54/100 ml [13]	1/Week [1/07]	Grab [GR]
Total Residual Chlorine <sup>(6)</sup> [50060]	---	---	---	0.1 mg/L [19]	---	0.18 mg/L [19]	1/Day [01/01]	Grab [GR]
Mercury (Total) <sup>(7)</sup> [71900]	---	---	---	9.4 ng/L [3M]	---	14.1 ng/L [3M]	1/Year [01/YR]	Grab [GR]
pH [00400]	---	---	---	---	---	6.0-9.0 [12]	1/Day [01/01]	Grab [GR]

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

**FOOTNOTES:** See Pages 8 – 11 of this permit for applicable footnotes

## SPECIAL CONDITIONS

### A.2 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Beginning upon issuance of this permit, the permittee is authorized to discharge secondary treated municipal wastewater from a publicly owned treatment works via **OUTFALL #001A** to the Atlantic Ocean. Such discharges are limited and must be monitored by the permittee as specified below<sup>(1)</sup>.

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Fecal Coliform Bacteria <sup>(2)(4)</sup> (Upon issuance through May 14 <sup>th</sup> 2020) [74055]	---	---	---	Report [13]	---	Report [13]	2/Month [02/30]	Grab [GR]
Fecal Coliform Bacteria <sup>(2)(4)</sup> May 15 <sup>th</sup> , through September 30 <sup>st</sup> 2020) [74055]	---	---	---	15 cfu/100 ml [13]	---	50 cfu/100 ml [13]	2/Month [02/30]	Grab [GR]
Fecal Coliform Bacteria <sup>(2)(4)</sup> October 1 <sup>st</sup> , through December 30 <sup>st</sup> 2020) [74055]	---	---	---	Report [13]	---	Report [13]	2/Month [02/30]	Grab [GR]
Fecal Coliform Bacteria <sup>(2)(4)</sup> (Year-round beginning December 31 <sup>st</sup> 2020) [74055]	--	---	---	14 cfu/100 ml [13]	---	31 cfu/100 ml [13]	2/Month [02/30]	Grab [GR]
Enterococci Bacteria <sup>(5)</sup> (Seasonally April 15 <sup>th</sup> -October 31 <sup>st</sup> Beginning 2022) [61211]	---	---	---	8 cfu/100 ml [13]	---	54 cfu/100 ml [13]	1/Week [1/07]	Grab [GR]

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

**FOOTNOTES:** See Pages 8 – 11 of this permit for applicable footnotes

## SPECIAL CONDITIONS

### A.3. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

#### SCREENING LEVEL TESTING

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

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity <sup>(8)</sup> <b><u>Acute – NOEL</u></b> <i>Americamysis bahia</i> (Mysid shrimp) [TDM3E]	---	Report% [23]	2/Year [02/YR]	Composite [24]
<b><u>Chronic – NOEL</u></b> <i>Arbacia punctulata</i> (Sea urchin) [TBH3A]	---	Report% [23]	2/Year [02/YR]	Composite [24]
Analytical Chemistry <sup>(9,11)</sup> [51477]	---	Report ug/L [28]	1/Quarter [01/90]	Composite / Grab [24/GR]
Priority Pollutant <sup>(10,11)</sup> [50008]	---	Report ug/L [28]	1/Year [01/YR]	Composite / Grab [24/GR]

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

**FOOTNOTES:** See Pages 8 – 11 of this permit for applicable footnotes

**A.4. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS – OUTFALL #001 (cont'd)**

***SURVEILLANCE LEVEL TESTING***

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

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
<b><u>Whole Effluent Toxicity</u></b> <sup>(8)</sup>				
<b><u>Acute No Observed Effect Level (A-NOEL)</u></b> <i>Americamysis bahia</i> (Mysid shrimp) [TDA3E]	---	Report% [23]	1/2 Year [01/2YR]	Composite [24]
<b><u>Chronic No Observed Effect Level (C-NOEL)</u></b> <u>Chronic – NOEL</u> <i>Arbacia punctulata</i> (Sea urchin) [TBH3A]	---	Report% [23]	1/2 Year [01/2YR]	Composite [24]
Analytical chemistry <sup>(9,11)</sup> [51477]	---	Report ug/L [28]	1/2 Year [01/2YR]	Composite/Grab [24/GR]

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

**FOOTNOTES:** See Pages 8 – 11 of this permit for applicable footnotes

## SPECIAL CONDITIONS

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

#### FOOTNOTES:

1. **Sampling** – Any change in sampling location must be approved by the Department in writing. All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process, including dechlorination, as to be representative of end-of-pipe effluent characteristics. The licensee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a publicly owned treatment works (POTW) pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective December 19, 2018). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10 – 144 CMR 263. If the licensee monitors any pollutant more frequently than required by the license using test procedures approved under 40 CFR Part 136 or as specified in this license, the results of this monitoring must be included in the calculation and reporting of the data submitted in the discharge monitoring report (DMR).
2. **Twice per Month Monitoring:** Monitoring required at a minimum frequency of 2/month must be collected no less than 14 days between sampling events, unless specifically authorized by the Department's compliance inspector.
3. **Percent Removal** – The treatment facility must maintain a minimum of 85 percent removal of both total suspended solids and biochemical oxygen demand for all flows receiving secondary treatment. The percent removal must be based on monthly average influent and effluent concentration values.
4. **Fecal coliform bacteria** – Limits apply on a year-round basis. The monthly fecal coliform average limitation is a **geometric mean** limitation and results must be calculated and reported as such.
5. **Enterococcus Bacteria Reporting** – The enterococcus bacteria limitation is a **geometric mean** and monitoring requirements are seasonal running from April 15<sup>th</sup> – October 31<sup>st</sup>. These monitoring and reporting requirement must commence on April 15<sup>th</sup>, 2022.
6. **Total Residual Chlorine (TRC) Monitoring** – Limitations and monitoring requirements are in effect any time elemental chlorine or chlorine-based compounds are utilized to disinfect the discharge(s). The permittee must utilize a USEPA-approved test method capable of bracketing the TRC limitations specified in this permitting action. Monitoring for TRC is only required when elemental chlorine or chlorine-based compounds are in use for effluent disinfection. For instances when a facility has not disinfected with chlorine-based compounds for an entire reporting period, the facility must report "N9" on the electronic DMR.

## SPECIAL CONDITIONS

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

#### FOOTNOTES:

7. **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 C.M.R. 519 in accordance with the USEPA's "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*. Go to [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html) and click on "Whole Effluent Toxicity, Chemistry, and Mercury Reporting Forms" for a reporting 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.
8. **Whole effluent toxicity (WET) testing** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic thresholds of 7.1% and 1.1% respectively), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOELC. A-NOEL is defined as the acute no observed effect level with survival as the endpoint. C-NOEL is defined as the chronic no observed effect level with fertilization for the sea urchin as the endpoint. The critical acute and chronic thresholds were derived as the mathematical inverse of the applicable acute and chronic dilution factors of 14:1 and 91:1, respectively.
  - a. **Screening-level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct screening level WET testing at a minimum frequency of once per year (2/Year). Acute tests must be conducted on the mysid shrimp (*Americamysis bahia*); chronic tests must be conducted on the sea urchin (*Arbacia punctulata*).
  - b. **Surveillance-level testing** – Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee must conduct surveillance level WET testing at a minimum frequency of once per years (1/2 Year). Acute tests must be conducted on the mysid shrimp (*Americamysis bahia*). Chronic tests must be conducted on the sea urchin (*Arbacia punctulata*). Testing must be conducted in a different calendar quarter each sampling event.

## SPECIAL CONDITIONS

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

#### FOOTNOTES:

WET test results must be submitted to the Department no later than the next DMR required by the permit, provided, however, the permittee may review the toxicity reports for up to 10 business days after receiving the test results from the laboratory conducting the testing before submitting them. The permittee must evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds of 7.1% and 1.1%, respectively.

Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following USEPA methods manuals.

- a. U.S. Environmental Protection Agency. 2002. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 5th ed. USEPA 821-R-02-012. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., October 2002 (the acute method manual);
- b. U.S. Environmental Protection Agency. 2002. *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms*, 3rd ed. EPA 821-R-02-014. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., October 2002 (the marine chronic method manual).

Results of WET tests must be reported on the “Whole Effluent Toxicity Report Marine Waters” form found at: [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html) permit each time a WET test is performed. Each time a WET test is performed, the permittee must sample and analyze for the parameters in the WET Chemistry and the Analytical Chemistry sections of the Department form entitled, *Maine Department of Environmental Protection, Chemical Specific Data Report Form* form found at: [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html)

9. **Analytical chemistry** – Refers to those pollutants listed under “Analytical Chemistry” on the form found at: [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html)
  - a. **Screening-level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter) for four consecutive calendar quarters.
  - b. **Surveillance-level testing** – Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee must conduct analytical chemistry testing at a minimum frequency of once every two years (reduced testing), except for those analytical chemistry parameter(s) otherwise regulated in this permit. Tests must be conducted in different calendar quarters.

## **SPECIAL CONDITIONS**

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

10. **Priority pollutant testing** – Refers to those pollutants listed under “Priority Pollutants” on the form found at: [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html)
- a. **Screening-level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct priority pollutant testing at a minimum frequency of 1/Year calendar.
- b. **Surveillance-level testing** – Pursuant to 06-096 CMR 530(2)(D)(1) priority pollutant surveillance testing is not required for Level II facilities.
11. **Analytical chemistry and priority pollutant** – Testing must be conducted on samples collected at the same time as those collected for whole effluent toxicity tests. Priority pollutant and analytical chemistry testing must be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department.

Test results must be submitted to the Department not later than the next DMR required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee must evaluate test results being submitted and identify to the Department, possible exceedances of the acute, chronic or human health Ambient Water Quality Criteria (AWQC) as established in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005). For the purposes of DMR reporting, enter a “1” for yes, testing done this monitoring period or “N9” monitoring not required this period.

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

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the uses designated by the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated by the classification of the receiving waters.
3. The permittee must not discharge effluent that imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsafe for the designated uses and characteristics ascribed to their classification.
4. The permittee must not discharge effluent that lowers 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.



## **SPECIAL CONDITIONS**

### **C. TREATMENT PLANT OPERATOR**

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

### **D. LIMITATIONS FOR INDUSTRIAL USERS**

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

### **E. AUTHORIZED DISCHARGES**

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on July 2, 2018; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source(s) are not authorized under this permit, and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting*, of this permit.

### **F. NOTIFICATION REQUIREMENT**

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

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

## **SPECIAL CONDITIONS**

### **G. WET WEATHER MANAGEMENT PLAN**

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

The plan must conform to Department guidelines for such plans and must include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events.

The permittee must review their plan at least annually and record any necessary changes to keep the plan up to date. The Department may require review and update of the plan as it is determined to be necessary.

### **H. OPERATIONS AND MAINTENANCE PLAN**

**The permittee must maintain a current written comprehensive Operation & Maintenance (O&M) Plan for the facility.** 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 USEPA 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.

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

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

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

## **SPECIAL CONDITIONS**

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

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

- d. Changes in stormwater collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge; and
- e. Increases in the type or volume of transported (hailed) wastes accepted by the facility.

### **J. 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 your Department compliance inspector as an attachment to an email. In addition, a hardcopy form of this sheet must be signed and submitted to your compliance inspector, or a copy attached to your 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.

Toxsheet reporting forms must be submitted electronically as an attachment to an email sent to your Department compliance inspector. In addition, a signed hardcopy of your toxsheet must also be submitted.

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## **SPECIAL CONDITIONS**

### **J. MONITORING AND REPORTING (cont'd)**

A signed copy of the DMR and all other reports required herein must be submitted to the Department assigned compliance inspector (unless otherwise specified) following address:

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

Alternatively, if you are submitting an electronic DMR, the completed DMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the **15<sup>th</sup> day of the month** following the completed reporting period. Hard Copy documentation submitted in support of the eDMR must be postmarked on or before the **thirteenth (13<sup>th</sup>) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15<sup>th</sup>) day of the month** following the completed reporting period. Electronic documentation in support of the DMR must be submitted not later than close of business on the 15<sup>th</sup> day of the month following the completed reporting period.

### **K. SCHEDULE OF COMPLIANCE – YEAR-ROUND FEACAL COLIFORM LIMITATIONS**

This permit is establishing a schedule of compliance for the permittee to come into compliance with the National Shellfish Sanitations Program (NSSP), *Guide for the Control of Molluscan Shellfish 2017 Revision*, year-round monthly average and daily maximum Fecal Coliform bacteria limitations of 14 cfu/100 ml and 31 cfu/100 ml respectively.

***On or before March 15, 2020 [ICIS Code CS010]*** the permittee must submit a progress report to the Department for review that outlines the progress made to date to come into compliance with year-round monthly average and daily maximum Fecal Coliform bacteria limitations of 14 cfu/100 ml and 31 cfu/100 ml respectively.

***On or before December 31<sup>st</sup>, 2020***, the permit must be in compliance with year-round monthly average and daily maximum Fecal Coliform bacteria limitations of 14 cfu/100 ml and 31 cfu/100 ml respectively.

### **L. REOPENING OF PERMIT FOR MODIFICATION**

In accordance with 38 M.R.S. § 414-A(5) and 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 monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

**SPECIAL CONDITIONS**

**M. SEVERABILITY**

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit 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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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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.

**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

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

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

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

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

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

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

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

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

### **1. General facility requirements.**

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



# 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.

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
  - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (C) The permittee submitted notices as required under paragraph (c) of this section.
  - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

**6. Upsets.**

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (ii) The permitted facility was at the time being properly operated; and
  - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
  - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

# 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.

**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

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

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

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

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

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

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

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

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

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

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

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



# 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.

**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.

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

**FACT SHEET**

DATE: **March 13, 2020**

PERMIT NUMBER: **ME0102555**

WASTE DISCHARGE LICENSE: **W002657-6C-G-R**

NAME AND ADDRESS OF APPLICANT: **TOWN OF MOUNT DESERT  
P.O. BOX 248  
SEAL HARBOR, MAINE 04662**

COUNTY: **HANCOCK**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):  
**SEAL HARBOR WASTEWATER TREATMENT FACILITY  
STATE ROUTE 3  
SEAL HARBOR, MAINE 04662**

RECEIVING WATER CLASSIFICATION: **ATLANTIC OCEAN / CLASS SB**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**Mr. Edward Montague**  
**(207)-276-5531**  
[suptwwtp@mtdesert.org](mailto:suptwwtp@mtdesert.org)

**1. APPLICATION SUMMARY**

On July 2, 2018, the Department of Environmental Protection (Department) accepted as complete for processing, a renewal application from the Town of Mount Desert Island (Town) for the renewal of Waste Discharge License (WDL) W002657-6C-F-R/Maine Pollutant Discharge Elimination System (MEPDES) permit ME0102555, which was issued on January 7, 2014, for a five-year term. The 1/7/14 MEPDES permit authorized the Town to discharge of a monthly average flow of 0.25 million gallons per day (MGD) of secondary treated municipal wastewater from a publicly owned treatment works (POTW) facility to the Atlantic Ocean, Class SB, in Mount Desert, (Seal Harbor), Maine.

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## 2. PERMIT SUMMARY

- a. This permitting action is carrying forward all the terms and conditions of the previous permitting action except that this permitting action is:
  1. Eliminating the daily maximum concentration limit for copper based on a statistical evaluation for the most current 60 months of analytical chemistry and priority pollutant test results;
  2. Increasing the monitoring frequency of Fecal coliform from seasonal to year-round starting on December 31<sup>st</sup>, 2020, and amending the monthly average and daily maximum limits to 14 CFU/100 mL 31 CFU/100, respectively; and
  3. Establishing a seasonal monitoring requirement for Enterococci bacteria from April 15<sup>th</sup> – October 31<sup>st</sup> starting on April 15<sup>th</sup>, 2022. As well as establishing monthly average and daily maximum limits of 8 CFU/100 mL and 54 CFU/100 mL, respectively.
- b. History: This section provides a summary of significant licensing actions and milestones that have been completed for the Town of Mount Desert Seal Harbor Water Pollution Control Facility.

*November 21, 1985* – The U.S. Environmental Protection Agency (USEPA) issued NPDES permit #ME0101354 to the Town for discharge of 0.15 MGD of secondary treated sanitary wastewater from the Seal Harbor WWTF to the Atlantic Ocean. The permit expired on April 1, 1979 and superseded previous NPDES permits issued on 5/2/79 and 5/2/74.

*August 22, 1991* – The USEPA issued NPDES permit #ME0101346 to the Town thereby administratively consolidating the discharges of secondary treated sanitary wastewater from four POTWs located in and operated by the Town. This permitting action superseded four NPDES permits previously issued to the town for the discharges from the Seal Harbor WWTF (previously #ME0101354), the Somesville WWTF (previously #ME0101362), the Northeast Harbor WWTF (previously #ME0101346), and the Otter Creek WWTF (previously #ME0101338).

*August 27, 1997* – The USEPA issued NPDES permit #ME0101346 thereby administratively consolidating the discharge of treated sanitary wastewater from the Seal Harbor II WWTF, which had not been previously permitted through the NPDES program, with the four other facilities permitted in the 8/22/91 NPDES permit. This permitting action superseded the 8/22/91 action and expired on March 31, 2002. This permit required reporting of the monthly average and daily maximum flows from each facility and did not establish numeric discharge flow limitations.

*May 23, 2000* – The Department administratively modified WDL #W002657-59-B-R by establishing interim limits for the discharge of mercury.

*January 12, 2001* – The Department received authorization from the USEPA to administer the NPDES permitting program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program, and MEPDES permit #ME0102555 is being utilized for this facility. On March 26, 2011, the USEPA authorized the Department to administer the MEPDES program in Indian territories of the Penobscot Nation and Passamaquoddy Tribe.

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## 2. PERMIT SUMMARY (cont'd)

*December 12, 2002* – The Town submitted separate General Applications to the Department for the renewal of WDL #W002657-59-B-R (Seal Harbor I WWTF), WDL #W002658-59-B-R (Otter Creek WWTF), and WDL #W001007-58-B-R (Seal Harbor II WWTF). All wastewater flows currently conveyed to the Seal Harbor II and Otter Creek WWTF's for treatment will be conveyed to the upgraded Seal Harbor WWTF. Upon completion of the Seal Harbor consolidation project and elimination of the discharges from the Otter Creek and Seal Harbor II WWTFs, the Department retired the waste discharge licenses for these two facilities.

*November 17, 2003* – The Town submitted, as an addendum to their 12/12/02 application, a plan to the Department's Bureau of Land and Water Quality, Division of Water Resource Regulation entitled, "Seal Harbor Wastewater Treatment Plant, Treatment Plant Upgrade," prepared by Olver Associates, Inc., and dated August 2003. This plan was the basis for the establishment of TIER II limitations in this permitting action.

*January 20, 2004* – The Department finalized an Administrative Consent Agreement and Enforcement Order with the Town of Mount Desert for violations of effluent limitations at the Seal Harbor I, Otter Creek, Somesville and Northeast Harbor WWTFs. The enforcement order required the Town to submit design and contract documents for the consolidation of the Otter Creek and Seal Harbor WWTFs. The Enforcement Order also required the Town to complete construction and begin operation of the consolidated WWTF in Seal Harbor by June 30, 2005.

*April 10, 2006* – The Department issued a permit modification that implemented the testing requirements for 06-096 CMR, *Surface Water Toxics Control Program* Chapter 530.

*September 29, 2009* – The Department issued WDL # W002657-6C-D-R / MEPDES #ME0102555 for a five-year term. The September 29, 2009 permit superseded previous WDLs issued on July 4, 2004, August 12, 1997, February 28, 1979 and March 25, 1974.

*January 7, 2014* – The Department issued WDL # W002657-6C-F-R / MEPDES #ME0102555 for a five-year term.

*June 2, 2018* – The Town submitted a timely and complete application to the Department for the renewal of combination MEPDES permit # ME0102555/WDL # W002657-6C-F-R issued on 1/7/2014.

- c. **Source Description:** The Town operates the Seal Harbor WWTF, which serves approximately 1,100 summer and 850 winter residential and commercial customers in the villages of Seal Harbor and Otter Creek, Maine. There are no significant industrial users within the collection system, no combined sewer overflow points and the facility is not authorized to receive septage from outside sources. The collection system has four (4) pump stations, each with backup emergency power sources, and is 100% separated (sanitary and storm water). The average daily and peak hourly flow design capacities are 0.250 MGD and 0.950 MGD, respectively.

A map of the Mount Desert area showing the general location of the Seal Harbor WWTF and the associated outfall location is included as Fact Sheet **Attachment A**

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## 2. PERMIT SUMMARY (cont'd)

- d. Wastewater Treatment: Seal Harbor owns and operates a sewerage collection system and a wastewater treatment facility. The collection system is a 3.5-mile network that collects raw wastewater throughout the sewerage area to serve approximately 900 winter and 2,700 summer residential and commercial customers. There are four (4) pump stations. Sewer pipe materials consist of PVC, vitrified clay, and asbestos cement. The treatment facility, which is located off of Main Street in Seal Harbor, was originally constructed in the early 1970s. The outfall discharges into the Atlantic Ocean. Sewers were constructed in the early 1970s to convey waste to the treatment facility.

The wastewater treatment facility was last upgraded in 2005 when the Otter Creek treatment plant was taken offline and a new central pump station was constructed to convey Otter Creek's sewage to Seal Harbor for treatment. The Otter Creek area adds approximately 1,100 summer and 850 winter residents to the system. The Otter Creek sewer system contains approximately 2.1 miles of collector sewer and 3.0 miles of force main.

Raw wastewater is conveyed to the facility via a 12" ductile iron gravity sewer. Here, sodium hydroxide is added for pH control. An 8,100 gallon pre-aeration reactor is the first process in the plant's headworks. The reactor freshens potentially septic influent prior to treatment. The influent is then conveyed through a manual bar rack and/or mechanical grinder for influent screening. The influent can then be directed to a 8,100 gallon anoxic selector reactor or into one or both of the two 82,000 gallon aeration basins. Only one aeration basin is online at any given time so that the other can be used for high flow management. Wastewater is then conveyed to one of two 30-foot diameter circular secondary clarifier with a volume of approximately 64,000 gallons each. Clarifier effluent then flows into the plant's Ultraviolet (UV) Disinfection Reactor where it is bypassed into a 10,500 gallon chlorine contact chamber for disinfection using sodium hypochlorite, which is followed by sodium bisulfite for dechlorination. The contact chamber provides approximately 60 minutes of detention at average design flows. Effluent flow is measured by a 90° V-notch weir installed in the UV Disinfection Reactor. Treated effluent is conveyed to the Atlantic Ocean for discharge via a 12" outfall pipe that extends 1100' into the harbor with diffuser ports at the end.

Sludge handling equipment at the facility includes a 1,060 gallon scum tank, a 11,000 gallon sludge decant reactor and a 75,000 gallon sludge digester and three 7.5-horsepower return sludge pumps. Scum from the secondary clarifier is skimmed to the scum tank. Settled material from the clarifier and scum are subsequently pumped to the aerobic digester for settling and decanting. Return activated sludge is also pumped directly back to the aeration basins. The digester supernatant is sent to the aeration basins. Sludge from the digester is hauled to the Ellsworth WWTF for dewatering.

### 3. CONDITIONS OF PERMIT

*Conditions of licenses*, 38 M.R.S. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and *Surface Water Toxic Control Program*, require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective July 29, 2012), 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

*Classifications of estuarine and marine waters*, 38 M.R.S. § 469(2)(1) classifies Atlantic Ocean at the point of discharge as a Class SB waterway. *Standards for classification of estuarine and marine waters*, 38 M.R.S. § 465-B(2) describes the standards for classification for Class SB waters.

### 5. RECEIVING WATER QUALITY CONDITIONS

*The State of Maine 2016 Integrated Water Quality Monitoring and Assessment Report*, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the marine waters at the permittee's outfall as, *Category 5-B-1(a), Estuarine and Marine Waters Impaired for Bacteria Only - TMDL Required*. The impairment may be either recreational uses (swimming) or shellfish consumption or both. Shellfish consumption impairments only apply to waters naturally capable of supporting the shellfish harvesting use (i.e. waters of high enough salinity for propagation of shellfish).

The Maine Department of Marine Resources (MEDMR) closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions and current shoreline surveys. In addition, the MEDMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Thus, shellfish harvesting area #44 is closed to the harvesting of shellfish. The shellfish closure area can be found at <http://www.maine.gov/dmr/shellfish-sanitation-management/closures/pollution.html>.

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 polychlorinated biphenyls (PCBs) and other persistent, bioaccumulating substances in lobster tomalley. The permittee will not cause or contribute to the failure of the receiving waters to meet the standards of its designated classification.

## 6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Flow: The previous permitting action established, and this permitting action is carrying forward a monthly average flow limitation of 0.25 MGD as it remains representative of the monthly average design capacity of the facility.

The Department reviewed 59 Discharge Monitoring Reports (DMRs) that were submitted for the period January 2014 – January 2019. A review of the data indicates the following:

### Flow (DMRs=59)

Value	Limit MGD	Range MGD	Mean MGD
Monthly Average	0.25	0.05 – 0.31	0.11
Daily Maximum	Report	0.06 – 0.88	0.32

- b. Dilution Factors: 06-096 CMR 530(4)(A)(2)(a) states that, “*For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water 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.*” Based on the configuration of the Outfall #001A, which extends 60 feet beyond the low water mark with three (3) feet of water over the top of the pipe at mean low water of which the end is fitted with seven 2-inch ports and one 6-inch outlet port, and a monthly average discharge flow design criterion of 0.25 million gallons per day (MOD), dilution factors associated with the discharge of secondary treated wastewaters via Outfall #001A are as follows:

Acute = 14:1                  Chronic = 91:1                  Harmonic mean<sup>(1)</sup> = 273:1

### Notes:

<sup>1</sup>The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the U.S. EPA publication, “*Technical Support Document for Water Quality-Based Toxics Control*” (Office of Water; USEPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

- c. Biochemical Oxygen Demand (BOD<sub>5</sub>) & Total Suspended Solids (TSS): The previous permitting action established, and this permitting action is carrying forward, monthly and weekly average technology-based concentration limits of 30 mg/L and 45 mg/L, respectively, for BOD<sub>5</sub> and TSS based on the secondary treatment requirements specified at *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III) (effective January 12, 2001), and a daily maximum concentration limit of 50 mg/L, which is based on a Department best professional judgment (BPJ) of best practicable treatment (BPT) for secondary treated wastewater. The technology-based monthly, weekly, and daily average mass limits of 63 lbs./day, 94 lbs./day and 104 lbs./day, established in the previous permitting action for BOD<sub>5</sub> and TSS are based on the monthly average flow design criterion of 0.25 MGD. The applicable concentration limits are also being carried forward in this permitting action. This permitting action is carrying forward a requirement for a minimum of 85% removal of BOD<sub>5</sub> & TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3) along with a 1/Month monitoring frequency.

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

The Department reviewed 59 DMRs that were submitted for the period January 2014 – January 2019. A review of the data indicates the following:

### BOD<sub>5</sub> Mass (DMRs=59)

Value	Limit (lbs./day)	Range (lbs./day)	Average (lbs./day)
Monthly Average	63	1-21	5.0
Weekly Average	94	1-23	6.2
Daily Maximum	104	1-23	6.2

### BOD<sub>5</sub> Concentration (DMRs=59)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	3-12	5.7
Weekly Average	45	3-20	6.4
Daily Maximum	50	3-20	6.4

### TSS mass (DMRs=59)

Value	Limit (lbs./day)	Range (lbs./day)	Average (lbs./day)
Monthly Average	63	1-19	5.3
Weekly Average	94	1-28	7.1
Daily Maximum	104	1-28	7.1

### TSS concentration (DMRs=59)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	2-30	6.1
Weekly Average	45	2-57	7.6
Daily Maximum	50	2-57	7.6

- d. Settleable Solids: The previous permitting action established, and this permitting action is carrying forward, a technology-based daily maximum concentration limit of 0.3 ml/L for settleable solids, which is considered a best practicable treatment limitation (BPT) for secondary treated wastewater.

The Department reviewed 59 DMRs that were submitted for the period January 2014 – January 2019. A review of data indicates the following:

### Settleable solids concentration (DMRs=59)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	0.1 – 0.3	1.2

- e. Fecal Coliform Bacteria – The previous permitting action established, a seasonal (May 15 – September 30) monthly average and daily maximum limits of 15 colonies/100 mL and 50 colonies/100 mL. This permitting action is establishing year-round starting on December 31<sup>st</sup>, 2020, monthly average and daily maximum limits of 14 colonies/100 mL and 31 colonies/100 mL for fecal coliform bacteria, which are consistent with the National Shellfish Sanitation Program.

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

The Department reviewed 25 DMRs that were submitted for the period January 2014 – January 2019. A review of data indicates the following:

### Fecal coliform bacteria (DMRs=21)

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	15	1–9	1.4
Daily Maximum	50	1-60	3.4

In a letter dated September 6, 2019, the permittee requested a compliance schedule for year-round limitations of Fecal Coliform bacteria until May 15, 2020. In supplemental correspondence to the Department the permittee requested an implementation timeline extending to December 21, 2020 for the Somesville, Seal Harbor, and Northeast Harbor treatment facilities.

The permittee has indicated it needs until December 31, 2020 to adequately weatherize the disinfection systems for the winter months. The year timeframe will provide the permittee with sufficient time to secure funds and perform weatherization modifications to the Somesville, Seal Harbor, and Northeast Harbor treatment facilities.

By March 15, 2020, the permittee must provide the Department with a written assessment of progress made in order to come into compliance with year-round Fecal Coliform monthly limitation of 14 CFU/100 ml and daily limitations maximum limitations of 31 CFU/100 ml.

The Department finds the permittee's request for a year schedule of compliance to comply with year-round Fecal Coliform bacteria limitations to be acceptable and consistent with the requirement established in 38 M.R.S. §414(2) and *Effluent Guidelines and Standards* 06-096 CMR 523(7). See Special Condition A.2, *Effluent Limitations and Monitoring Requirements*, and Special Condition K, *Schedule of Compliance-Year Round Fecal Coliform Limitation* of the permit.

- f. Enterococcus Bacteria: This permitting action is establishing a monitoring requirement and limits for enterococcus bacteria based on current Maine criteria. In addition to fecal coliform limits to protect the designated use of “propagation and harvesting of shellfish”, it is appropriate to require end-of-pipe limits for enterococcus bacteria, based on current Maine criteria, to protect the designated use of “recreation in and on the water” on a seasonal basis starting on April 15<sup>th</sup>, 2022. The seasonal reporting period will be April 15<sup>th</sup> through October 31<sup>st</sup> starting on April 15, 2022. A 1/Week monitoring requirement is also being established in this permitting action.
- g. Total Residual Chlorine (TRC) – The previous permitting action established technology-based monthly average and water quality-based daily maximum concentration limits of 0.1 mg/L and 0.3 mg/L, respectively, for TRC. Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or BPT-based limit. With dilution factors as determined above, end-of-pipe (EOP) water quality-based concentration thresholds for TRC must be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	14:1 (A) 91:1 (C)	0.18 mg/L	0.68 mg/L

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

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that need to dechlorinate the discharge to meet water quality-based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. The facility dechlorinates the effluent prior to discharge to achieve compliance with the water quality-based thresholds.

Because the facility needs to dechlorinate the discharge to comply with the calculated water quality thresholds, this permitting action is carrying forward the daily maximum and monthly average limitations of 0.18 mg/L and 0.1 mg/L, respectively, as the water quality-based limits are more stringent than the technology-based limit calculated above.

### Total residual chlorine (DMRs=38)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	0.18	N/A	N/A
Monthly Average	0.1	N/A	N/A

- h. **pH** – The previous permitting action established, and this permitting action is carrying forward a technology- based pH limit of 6.0 – 9.0 standard units (SU), which is based on 06-096 CMR 525(3)(III), and a minimum monitoring frequency requirement of once per day.

The Department reviewed 56 DMRs that were submitted for the period January 2014 – January 2019. A review of data indicates the following:

### pH (DMRs=59)

Value	Limit (SU)	Minimum (SU)	Maximum (SU)
Range	6.0 – 9.0	6.0	8.4

- i. **Whole Effluent Toxicity (WET) and Chemical-Specific Testing:** 38 M.R.S. § 414-A and 38 M.R.S. § 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. 06-096 CMR 530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. 06-096 CMR 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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

WET, priority pollutant and analytical chemistry testing, as required by 06-096 CMR 530, is included in this permit to characterize the effluent. WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on the mysid shrimp (*Americamysis bahia*) and the sea urchin (*Arbacia punctulata*). Chemical-specific monitoring is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health water quality criteria. Priority pollutant testing refers to the analysis for levels of priority pollutants listed under “Priority Pollutants” on the form found at: [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html). Analytical chemistry refers to those pollutants listed under “Analytical Chemistry” on the form found at: [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html)

06-096 CMR 530(2)(A) specifies the dischargers subject to the rule as:

All licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedances of narrative or numerical water quality criteria.

The Town of Mount Desert’s Seal Harbor Wastewater Treatment facility discharges treated domestic (sanitary) wastewater to surface waters and is therefore subject to the testing requirements of the toxics rule.

06-096 CMR 530(2)(B) categorizes discharges subject to the toxics rule into one of four levels (Level I through IV). The four categories for dischargers are as follows:

Level I	Chronic dilution factor of <20:1
Level II	Chronic dilution factor of $\geq 20:1$ but <100:1.
Level III	Chronic dilution factor $\geq 100:1$ but <500:1 or >500:1 and $Q \geq 1.0$ MGD
Level IV	Chronic dilution factor >500:1 and $Q \leq 1.0$ MGD

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

Based on the Chapter 530 criteria, the permittee's facility falls into the Level II frequency category as the facility has a chronic dilution factor of at least 20 but less than 100 to 1. 06-096 530(2)(D)(1) specifies that routine screening and surveillance level testing requirements are as follows:

### Screening level testing

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

### Surveillance level testing

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

This permit provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment, and receiving water characteristics.

j. Whole Effluent Toxicity (WET) Evaluation: 06-096 CMR 530(3)(E) states:

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

On July 9, 2019, the Department conducted a statistical evaluation on the most recent 58 months of WET test results on file with the Department for the Town in accordance with the statistical approach outlined above. The 7/9/19 statistical evaluation indicates that indicates that none of the results had a reasonable potential to exceed the chronic or acute ambient water quality threshold. See **Attachment C** of this Fact Sheet for a summary of the WET test results.

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

### k. Analytical Chemistry & Priority Pollutant Testing Evaluation:

06-096 CMR 530(4)(C) states:

The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department must use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions. The Department must use the same general methods as those in section 4(D) to determine background concentrations.

For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations.

06-096 CMR 530(3)(E) states, “Where it is determined through [the statistical approach referred to in USEPA’s Technical Support Document for Water Quality-Based Toxics Control] that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedance of water quality criteria, appropriate water quality-based limits must be established in any licensing action.”

06-096 CMR 530(3)(D) states, “Where the need for effluent limits has been determined, limits derived from acute water quality criteria must be expressed as daily maximum values. Limits derived from chronic or human health criteria must be expressed as monthly average values.”

### Total Copper

The previous permitting action established a daily maximum concentration reporting limit for copper of 0.13 lbs./day. Federal regulation 40 CFR, §122(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that except for provisions specified in the regulation, effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit. Applicable exceptions include (1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation and (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance.

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

This permitting action is removing the previously established water quality based daily maximum concentration limit requirement for copper given the most current 60 months of data indicates there are no test results that exceed or have a reasonable potential to exceed applicable AWQC. Consistent with 06-096 CMR Chapter 530, limitations are no longer necessary. The Department has made the determination that removing the limitation is based on new information that was not available at the time of the previous permitting action.

**Chemical specific evaluation**

As with WET test results, the Department conducted a statistical evaluation on July 9, 2019, for the most current 60 months of analytical chemistry and priority pollutant test results on file. The evaluation indicates the discharge did not exceed any of the applicable AWQC thresholds. See **Attachment D** of this Fact Sheet for the individual test results.

1. **Mercury:** Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and *Waste Discharge Licenses*, 38 M.R.S. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued an interim average and daily maximum effluent concentration limits of 19.7 parts per trillion (ppt) and 29.6 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. 38 M.R.S. § 420(1-B)(B)(1) provides that a facility is not in violation of the Ambient Water Quality Criteria (AWQC) for mercury if the facility is in compliance with an interim discharge limit established by the Department. A review of the Department's data base for the period September 1999 – November 2018 indicates the permittee has been in compliance with the interim limits for mercury as results have been reported as follows:

**Mercury (DMRs=34)**

Value	Limit (ng/L)	Range (ng/L)	Mean (ng/L)
Average	9.4	1.30 – 10.0	3.64
Daily Maximum	14.1		

The Department issued a minor revision on February 6, 2012, to the October 12, 2011 permit thereby revising the minimum monitoring frequency requirement from twice per year to once per year given the permittee has maintained at least 5 years of mercury testing data. Pursuant to 38 M.R.S. § 420(1-B)(F), this permitting action is carrying forward the 1/Year monitoring frequency established in the February 6, 2012, permit modification. See **Attachment E** of the Fact Sheet for test results.

- m. **Nitrogen:** The USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards in marine waters, namely dissolved oxygen (DO) and marine life support. To date, the permittee has not conducted total nitrogen testing on its discharge. As of December 2018, the Department has 151 total nitrogen effluent values with an arithmetic mean of 19.1 mg/L collected from various municipally-owned treatment works that discharge to marine waters of the State. None of the facilities whose effluent data were used are specifically designed to remove total nitrogen. For the MEPDES permitting program, the Department considers 19.1 mg/L to be representative of total nitrogen discharge levels for all facilities providing secondary treatment that discharge to marine waters in the absence of facility specific data, and therefore 19.1 mg/L is being used as the total nitrogen discharge concentration from the Town of Mt. Desert's Seal Harbor facility.

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

As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for total nitrogen. According to several studies in USEPA's Region 1, numeric total nitrogen criteria have been established for relatively few estuaries, but the criteria that have been set typically fall between 0.35 mg/L and 0.50 mg/L to protect marine life using dissolved oxygen as the indicator. While the thresholds are site-specific, nitrogen thresholds set for the protection of eelgrass habitat range from 0.30 mg/L to 0.39 mg/L. Based on studies in USEPA's Region 1 and the Department's best professional judgment of thresholds that are protective of Maine water quality standards, the Department is utilizing a threshold of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator, and 0.32 mg/L for the protection of aquatic life using eelgrass as the indicator.

Two known surveys have been completed along the Seal Harbor shoreline to document presence/absence of eelgrass. The 1970's Timson (Maine Geological Survey) Coastal Marine Geological Environments information referenced in other Maine marine discharge permits is not being utilized for this permit due to deficiencies in the aerial imagery and groundtruthing methods used for eelgrass delineation. The eelgrass surveys considered in this permit were conducted in 1996 and 2008 by the Maine Department of Marine Resources, and documented eelgrass presence throughout the Harbor and in immediate proximity to the wastewater outfall. The 26.7-ha (66 ac) eelgrass bed mapped in 1996 was documented as being 40-70% cover. In 2008, the bed was delineated as 8.5 ha (21 ac) in extent, and of the same percent cover class as in 1996. Given the mapped bathymetry and water depths near the center of Seal Harbor, the difference in bed area between survey years is likely not due to bed size reduction, but to increased mapping resolution during 2008. Based on this mapping history of eelgrass resource in the vicinity of the Seal Harbor outfall, the use of 0.32 mg/L as a total nitrogen threshold value for protection of eelgrass is appropriate for this receiving water.

With the exception of ammonia, nitrogen is not acutely toxic; thus, the Department is considering a far-field dilution to be more appropriate when evaluating impacts of total nitrogen to the marine environment. The permittee's facility has a chronic near-field dilution of 91:1. Far field dilutions are generally significantly higher than the near-field dilution, depending on the location of the outfall pipe and nature of the receiving waterbody. The permittee's facility discharges directly to Seal Harbor which is approximately 90 acres in size. Seal Harbor is flushed with approximately 600,000,000 gallons of water on a daily basis. Based on the relative size of the discharge in comparison to the tidal exchange, the farfield dilution is expected to be well in excess of 1,000:1

Conservatively using a far-field dilution factor of 1,000:1, the estimated increase in total nitrogen concentration in the Northeast Harbor discharge vicinity is estimated to be 0.019 mg/L.

The Department and external partners have been collecting ambient total nitrogen data along Maine's coast. No total nitrogen data are known to exist close to the shallow subtidal shoreline in the vicinity of Seal Harbor. In general, few data points exist along the exposed rocky coastline of outer Penobscot Bay east to Cobscook Bay where eelgrass is present in nearby shallow areas, upland development could contribute seasonally to stormwater nutrients, and only minor point sources are present. For a calculation of a background total nitrogen value, the Department has selected seven sites from the exposed shoreline of outer Penobscot Bay and islands east to Narraguagus Bay, sampled in 2003, 2009 and 2010.

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

The use of these seven sites for the background total nitrogen calculation best approximates the ambient conditions likely to occur in Seal Harbor in the absence of the municipal wastewater discharge. From these sites, the Department has calculated a mean background concentration of  $0.20 \pm 0.05$  mg/L (n=9).

Based on the calculated ambient value for this receiving water, the estimated increase in ambient total nitrogen after reasonable opportunity for mixing in the far-field is  $0.20 \text{ mg/L} + 0.019 \text{ mg/L} = 0.219 \text{ mg/L}$ . The in-stream concentration value of 0.219 mg/L is less than the Department and USEPA's best professional judgment based total nitrogen threshold of 0.32 mg/L for the protection of aquatic life using eelgrass as an indicator. Using the reasonable potential calculations above and in the absence of any information that the receiving water is not attaining standards, the Department is making a best professional judgment determination that the discharge of total nitrogen from the Town of Mt. Desert's Seal Harbor facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters. This permitting action is not establishing limitations or monitoring requirements for total nitrogen.

## 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 Atlantic Ocean (Somes Sound) to meet standards for Class SB classification.

## 8. PUBLIC COMMENTS

Public notice of this application was made in *The Mount Desert Islander* newspaper on or about June 21, 2018. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## 9. DEPARTMENT CONTACTS

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

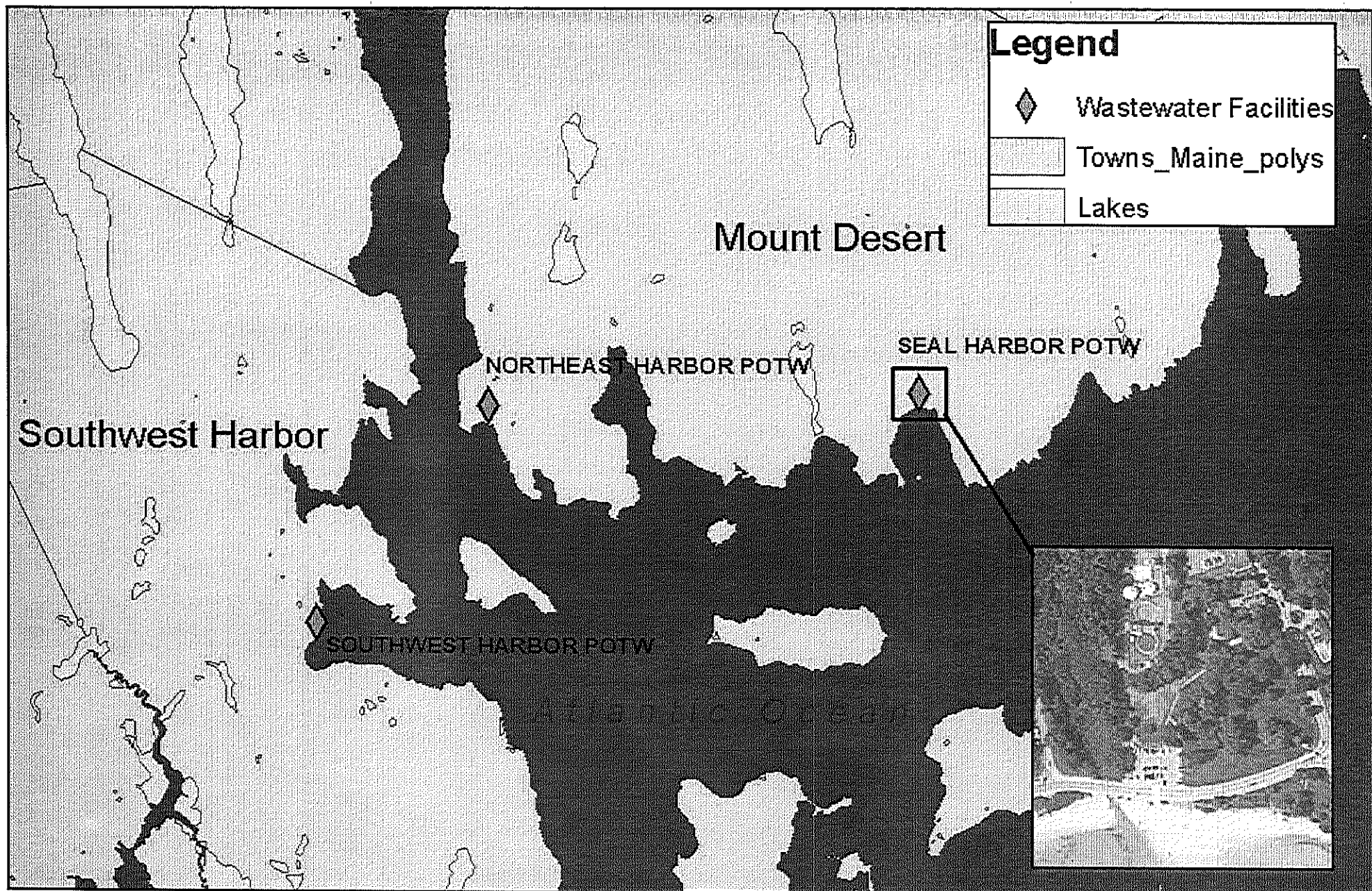
Aaron Dumont  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 287-1939  
e-mail: [Aaron.A.Dumont@maine.gov](mailto:Aaron.A.Dumont@maine.gov)



## **10. RESPONSE TO COMMENTS**

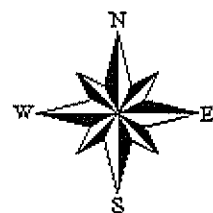
During the period of February 10, 2020 through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. It is noted that Footnote #1 was updated to include the most current boilerplate language. The Department did not receive any comments that resulted in any other substantive changes to the draft permit. It is noted that typographical and grammatical errors identified in comments were not summarized in this section, but were corrected, where necessary, in the final permit.

# **ATTACHMENT A**



0 0.45 0.9 1.8 2.7 Miles

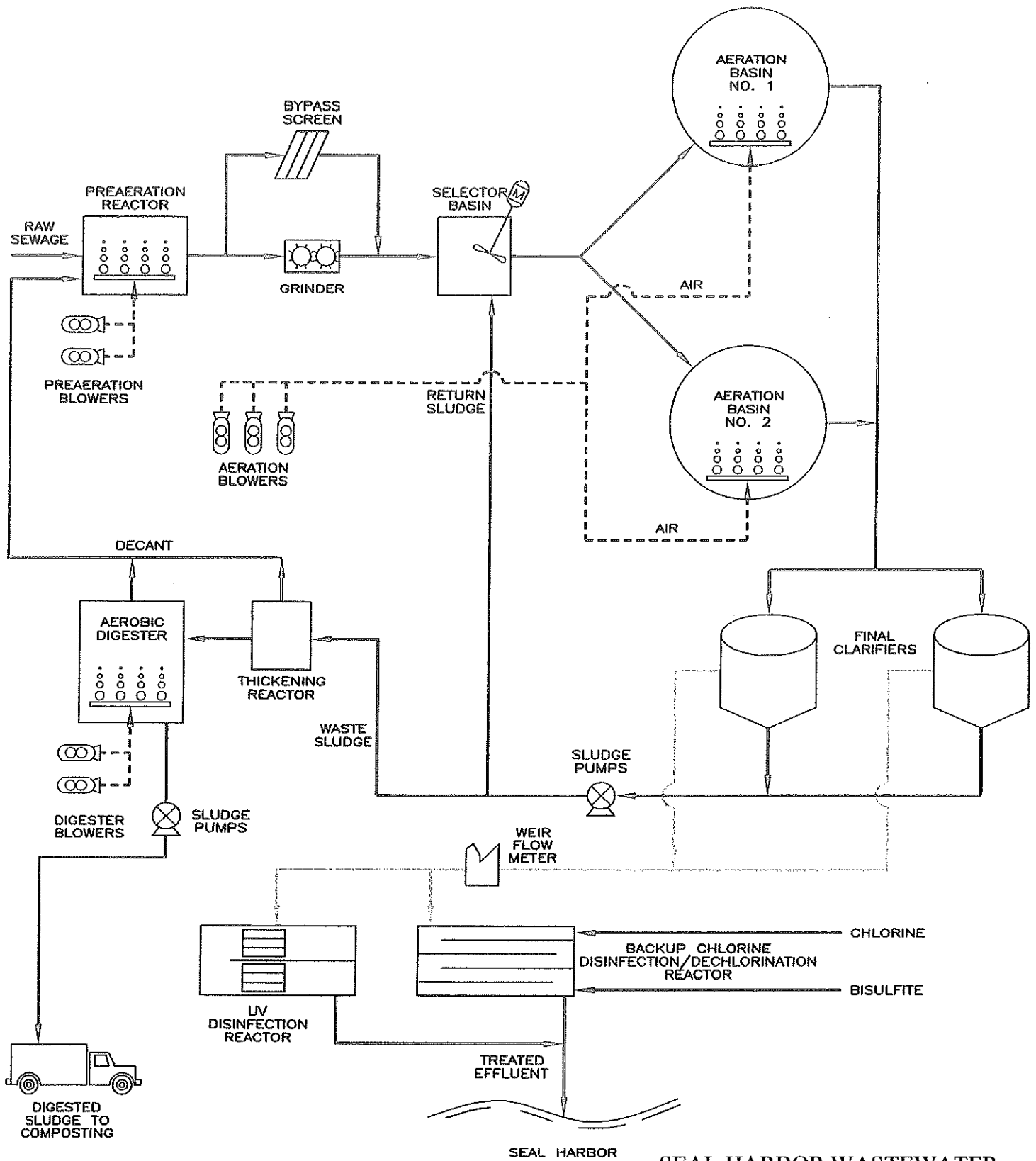
**Mount Desert, Seal Harbor POTW**



Map Created by Maine DEP  
July 23, 2013



## **ATTACHMENT B**



SEAL HARBOR WASTEWATER  
TREATMENT PLANT

FIGURE 3

## **ATTACHMENT C**



## FACILITY WET EVALUATION REPORT

**Facility:** MOUNT DESERT ISLAND (SEAL HARBOR)

**Permit Number:** ME0102555

**Report Date:** 7/9/2019

**Receiving Water:** SEAL HARBOR

**Rapidmix:** Y

**Dilution Factors:** 1/4 Acute: N/A

Acute: 14.000

Chronic: 91

**Effluent Limits:** Acute (%): 7.143

Chronic (%): 1.099

**Date range for Evaluation:** From 09/Jul/2014 To: 09/Jul/2019

**Test Type:** A\_NOEL

**Test Species:** MYSID SHRIMP

**Test Date**

**Result (%)**

**Status**

09/06/2016

100.000

OK

09/18/2017

100.000

OK

12/05/2018

100.000

OK

**Species Summary:**

**Test Number:** 3

**RP:** 3.000

**Min Result (%):** 100.000

**RP factor (%):** 33.333

**Status:** OK

**Test Type:** C\_NOEL

**Test Species:** SEA URCHIN

**Test Date**

**Result (%)**

**Status**

09/06/2016

50.000

OK

09/18/2017

50.000

OK

**Species Summary:**

**Test Number:** 2

**RP:** 3.800

**Min Result (%):** 50.000

**RP factor (%):** 13.158

**Status:** OK

## **ATTACHMENT D**





Facility Name: MOUNT DESERT ISLAND (SEAL HARBOUR)

NPDES: ME0102555

Test Date	Monthly (Flow MGD)	Daily	Total Test Number	Test # By Group						Clean	Hg
				M	V	BN	P	O	A		
09/01/2014	0.07	0.07	1	1	0	0	0	0	0	F	0
05/06/2015	0.08	0.08	1	1	0	0	0	0	0	F	0
11/15/2015	0.09	0.05	16	10	0	0	0	6	0	F	0
03/14/2016	0.02	0.02	1	1	0	0	0	0	0	F	0
09/06/2016	0.07	0.07	13	9	0	0	0	4	0	F	0
03/20/2017	0.12	0.07	127	13	28	46	25	4	11	F	0
06/13/2017	0.07	0.05	12	9	0	0	0	3	0	F	0
09/05/2017	0.05	0.06	13	9	0	0	0	4	0	F	0
12/10/2017	0.10	0.07	13	9	0	0	0	4	0	F	0
12/05/2018	0.13	0.20	14	9	0	0	0	5	0	F	0

## Key:

A = Acid                      O = Others                      P = Pesticides  
 BN = Base Neutral      M = Metals                      V = Volatiles

# **ATTACHMENT E**



Data Date Range: 12/01/1999-07/15/2019

Inspector Name: GARY BROOKS

Facility: MOUNT DESERT ISLAND (SEAL HARBOR)

Permit Number: ME0102555

Max (ng/l): 10.0000

Average (ng/l): 3.5291

Sample Date	Result (ng/l)	Lsthan	Clean
03/06/2000	3.70	N	T
09/26/2000	5.70	N	T
03/14/2001	6.70	N	T
06/25/2001	2.50	N	T
10/30/2002	8.80	N	T
12/30/2002	5.90	N	T
03/26/2003	4.10	N	T
06/30/2003	4.40	N	T
03/09/2004	4.60	N	T
11/27/2006	2.00	N	T
02/06/2007	1.90	N	T
06/11/2007	1.40	N	T
09/11/2007	10.00	N	T
10/16/2007	8.00	N	T
12/18/2007	2.40	N	T
06/23/2008	5.50	N	T
10/28/2008	2.50	N	T
01/05/2009	2.10	N	T
04/14/2009	2.10	N	T
09/08/2009	1.40	N	T
12/01/2009	2.10	N	T
02/10/2010	2.20	N	T
07/19/2010	1.60	N	T
05/09/2011	1.30	N	T
11/15/2011	3.70	N	T
05/14/2012	2.40	N	T
10/07/2013	2.50	N	T
10/06/2014	4.28	N	T
09/09/2015	2.44	N	T
05/10/2016	1.75	N	T
12/11/2017	1.41	N	T
03/05/2018	1.55	N	T

# **ATTACHMENT F**

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

MEPDES# \_\_\_\_\_ Facility Name \_\_\_\_\_

Since the effective date of your permit, have there been;		NO	YES Describe in comments section
1	Increases in the number, types, and flows of industrial, commercial, or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic?	<input type="checkbox"/>	<input type="checkbox"/>
2	Changes in the condition or operations of the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
3	Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
4	Increases in the type or volume of hauled wastes accepted by the facility?	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS:

Name (printed): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**This document must be signed by the permittee or their legal representative.**

This form may be used to meet the requirements of Chapter 530.2(D)(4). This Chapter requires all dischargers having waived or reduced toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative, the discharger may submit a signed letter containing the same information.

**Scheduled Toxicity Testing for the next calendar year**

Test Conducted	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
WET Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Priority Pollutant Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Analytical Chemistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other toxic parameters <sup>1</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Please place an "X" in each of the boxes that apply to when you will be conducting any one of the three test types during the next calendar year.*

<sup>1</sup> This only applies to parameters where testing is required at a rate less frequently than quarterly.