



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

AVERY T. DAY
ACTING COMMISSIONER

September 22, 2015

Mr. Gary Picard
Mountain Springs Trout Farm
P.O. Box 32
Frenchville, Maine 04745
mtsprings@roadrunner.com

*Sent via electronic mail
Delivery confirmation requested*

**RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0110451
Maine Waste Discharge License (WDL) Application #W008125-6F-H-R
Finalized MEPDES Permit**

Dear: Mr. Picard:

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

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

Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333-0017
Aaron.A.Dumont@maine.gov

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

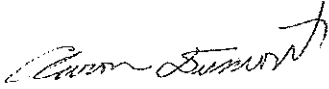
BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

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

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507

Letter to Mountain Springs Trout Farm
September 22, 2015
Page 2 of 2

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Dumont", with a stylized flourish at the end.

Aaron Dumont
Division of Water Quality Management
Bureau of Water Quality

Enclosure

cc:

Bill Sheehan, DEP/NMRO
Lori Mitchell, DEP/CMRO
Olga Vergara, EPA
Sandy Mojica, EPA



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

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

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

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

II. JUDICIAL APPEALS

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

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

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

ADDITIONAL INFORMATION

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

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



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

DEPARTMENT ORDER

IN THE MATTER OF

MOUNTAIN SPRINGS TROUT FARM)	MAINE POLLUTANT DISCHARGE
FRENCHVILLE, AROOSTOOK CTY, MAINE)	ELIMINATION SYSTEM PERMIT
FISH HATCHERY)	AND
#ME0110451)	WASTE DISCHARGE LICENSE
#W-008125-6F-H-R)	RENEWAL
APPROVAL		

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

APPLICATION SUMMARY

On March 3, 2015, the Department accepted as complete for processing an application from Mountain Springs Trout Farm for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0110451/ Maine Waste Discharge License (WDL) W-008125-6F-E-R, which was issued by the Department on May 5, 2010 and expired on May 5, 2015. The permit approved the discharge of a monthly average of 0.65 million gallons per day (MGD) and a daily maximum of 2.0 MGD of fish hatchery wastewater to the St. John River, Class B, from a commercial brook trout hatchery and rearing facility in Frenchville, Maine.

The Department issued a minor revision on September 11, 2012, that amended the monitoring and reporting requirements for pH limits. The Department also issued a minor revision on November 4, 2014, to eliminate the monitoring frequencies for biochemical oxygen demand (BOD₅) and use total suspended solids (TSS) as a surrogate for BOD₅.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the previous permitting actions except that it (please see Fact Sheet for more information on these summary items):

1. Eliminating the 2.0 MGD Daily Maximum flow limit;
2. Amends language in the "Footnotes" section of Special Condition A;
3. Establishes Condition G. *Use of Drugs for Disease Control*;
4. Establishes Condition H. *Pesticides and Other Compounds* to replace Special Conditions K. *Therapeutic Agents* and L. *Disinfecting/Sanitizing Agents* from the 2006 permit; and
5. Eliminates the formalin concentration limit and establishes a mass-based limit to allow for increased facility flexibility and management.

CONCLUSIONS

BASED on the findings in the attached **Fact Sheet** dated August 11, 2015 and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

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

ACTION

Based on the findings and conclusions as stated above, the Department APPROVES the above noted application of MOUNTIAN SPRINGS TROUT FARM to discharge a monthly average of 0.65 MGD of treated fish hatchery wastewater via Outfall #001A to the St. John River, Class B, in Frenchville, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

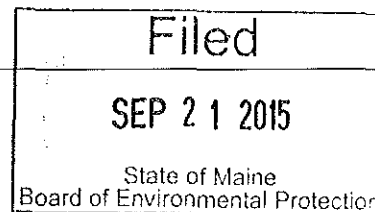
1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective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

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 21st DAY OF September 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Keuhns
for AVERY T. DAY, Acting Commissioner



Date filed with Board of Environmental Protection _____

Date of initial receipt of application February 27, 2015

Date of application acceptance March 3, 2015

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY

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

1. The permittee is authorized to discharge **fish hatchery and rearing facility wastewater from Outfall #001A** to the St. John River. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	0.65 MGD [07]	---	---	---	Daily [01/01]	Measure [MS]
TSS [00530]	33 lbs/day [26]	54 lbs/day [26]	6 mg/L [19]	10 mg/L [19]	1/Month [01/30]	Composite ² [CP]
Fish on Hand [45604]		Report lbs/day [26]			2/Month [02/30]	Calculated [CA]
Formalin⁽³⁾ [51064]	Report lbs/day [26]	7.6 lbs/day [26]---	Report mg/L [19]	---	Once per occurrence [1/OC]	Calculated [CA]

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 5-6 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes

1. **Sampling** – All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process, as to be representative of end-of-pipe effluent characteristics. Any change in sampling location must be approved by the Department in writing. The permittee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a publicly owned treatment works (POTW) licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective date April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR).
2. **Composite Samples** – Samples must consist of 24-hour composites collected with an automatic composite sampler. Alternatively, when weather conditions and/or equipment prevents automatic compositing and upon Department approval, the permittee may manually composite a minimum of four grab samples collected at two-hour intervals during the working day at the facility. The permittee must indicate the type of sample collected on the DMR.
3. **Formalin** – Formalin monitoring must be conducted when in use at the facility and must consist of a calculated effluent mass value. Therefore, the following calculation must be applied to assess the total mass of formalin discharged per occurrence (lbs./day):
Formalin applied (gallons) x 9.03¹ (lbs./gallon) = Total formalin in effluent (lbs./day)

The permittee must provide this information and calculations to the Department in a document accompanying the monthly DMR. The formalin limit corresponds to two types of treatments:

1. One hour per day treatment typical of hatchery and rearing facility discharges; and
2. Maximum of up to 24 hours of treatment and discharge for addressing emergency conditions at the facility.

¹ Per Material Safety Data Sheet, Parasite-S has a specific gravity of 1.0775-1.0865 giving it an average density of 9.03 lbs./gallon.

SPECIAL CONDITIONS

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

Formalin discharges lasting longer than 1-hour in duration must be conducted no more frequently than once every four days. The permittee must provide a list of dates on which treatments greater than 1-hour were performed, and the length of time of each such treatment, with each monthly DMR.

For instances when a permittee has not used formalin for an entire reporting period, the permittee must report "NODI-9" for this parameter on the monthly DMR or "N9" if the submittal is an electronic DMR.

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 for 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 for the classification of the receiving waters.
3. The permittee must not discharge effluent that causes visible discoloration or turbidity in the receiving waters that causes those waters to be unsuitable for the designated uses and characteristics ascribed to their class.
4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification.

C. 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 March 3, 2015; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized by this permit, and must be reported in accordance with Standard Condition D(1)(f), *Bypasses*, of this permit.

SPECIAL CONDITIONS

D. NOTIFICATION REQUIREMENT

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

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system.
2. For the purposes of this section, adequate notice must include information on:
 - a. The quality or quantity of wastewater introduced to the wastewater collection and treatment system; and
 - b. Any anticipated impact of the change in the quantity or quality of the wastewater to be discharged from the treatment system.

E. MONITORING AND REPORTING

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

Department of Environmental Protection
Bureau of Water Quality
Northern Maine Regional Office
1235 Central Drive
Skyway Park
Presque Isle, Maine 04769

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

SPECIAL CONDITIONS

E. OPERATION & MAINTENANCE (O&M) PLAN

The permittee must have a current written 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.

An acceptable O&M plan must ensure the following items are adequately addressed:

1. Solids Control
 - a. Methods and practices to ensure efficient feed management and feeding strategies that limit feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth in order to minimize potential discharges to waters of the State.
 - b. In order to minimize the discharge of accumulated solids from the settling basin, settling tanks, and production systems, identify and implement procedures for routine cleaning of rearing units and settling tanks, and procedures to minimize any discharge of accumulated solids during the inventorying, grading, and harvesting of aquatic animals in the production system.
 - c. Procedure for removal and disposal of mortalities to prevent discharge to waters of the State.
2. Materials Storage
 - a. Ensure proper storage of drugs², pesticides³, feed, and any petroleum and/or hazardous waste products in a manner designed to prevent spills that may result in the discharge of drugs, pesticides, or feed to waters of the State.
 - b. Implement procedures for properly containing, cleaning, and disposing of any spilled material that has the potential to enter waters of the State.

² **Drug.** "Drug" means any substance defined as a drug in section 201(g)(1) of the *Federal Food, Drug and Cosmetic Act* [21 U.S.C. § 321].

³ **Pesticide.** "Pesticide" means any substance defined as a "pesticide" in section 2(u) of the *Federal Insecticide, Fungicide, and Rodenticide Act* [7 U.S.C. § 136 (u)].

SPECIAL CONDITIONS

F. OPERATION & MAINTENANCE (O&M) PLAN

3. Structural Maintenance

- a. Inspect the production system and the wastewater treatment system on a routine basis in order to identify and promptly repair any damage.
- b. Conduct regular maintenance of the production system and the wastewater treatment system in order to ensure that they are properly functioning.

4. Recordkeeping

- a. Maintain records for fish rearing units documenting the feed amounts and estimates of the numbers and weight of fish.
- b. Maintain records that document the frequency of cleaning, inspections, repairs and maintenance.

5. Training

- a. In order to ensure the proper clean-up and disposal of spilled material adequately, train all relevant personnel in spill prevention and how to respond in the event of a spill.
- b. Train staff on the proper operation and cleaning of production and wastewater treatment systems including training in feeding procedures and proper use of equipment to prevent unauthorized discharges.

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.

SPECIAL CONDITIONS

G. USE OF DRUGS FOR DISEASE CONTROL

1. **General requirements.** All drugs used for disease prevention or control must be approved or authorized by the U.S. Food and Drug Administration (FDA), and all applications must comply with applicable FDA requirements.
2. **FDA-approved drugs.** Drugs approved by the FDA for fish culture purposes may be used in accordance with label instructions.
 - a. Preventative treatments. The discharge of any approved drug administered as a preventative measure is not authorized by this permit, unless the following conditions are met: the drug must be approved by FDA, and the treatment and route of administration must be consistent with the drug's intended use. Discharges may occur through direct application of a drug or indirectly through feed, injection, ingestion, or immersion at the facility.
 - b. Drugs identified in the permittee's application. A list of drugs, pesticides and other compounds proposed for use at MSTF during the term of the permit, which was provided by the permittee on Form DEPLW1999-18 included with its March 3, 2015 General Application for Waste Discharge Permit, is included as **Attachment A** of this permit.
 - c. Drugs not identified in the permittee's application. When the need to treat or control diseases requires the use of a FDA-approved drug not identified in an application, the permittee must notify the Department orally or by electronic mail prior to initial use of the drug.
 1. The notification must include a description of the drug, its intended purpose, the method of application, the amount, the concentration, the duration of the use, and information on aquatic toxicity.
 2. *Within seven (7) days of* the initial notification the permittee must submit a written report that includes all of the information outlined in Section G.2.c(1) above.
 3. The Department may require submission of an application for permit modification, including public notice requirements, if the drug is to be used for more than a 30 consecutive day period.

SPECIAL CONDITIONS

G. USE OF DRUGS FOR DISEASE CONTROL (cont'd)

4. If, upon review of information regarding the extralabel use of a drug pursuant to this section, the Department determines that significant adverse effects are likely to occur, it may deny, restrict or limit use of the drug.
3. **Extralabel drug use.** Extralabel drug use is not authorized by this permit, unless in accordance with a specific prescription written for that use by a licensed veterinarian.
 - a. Notification. The permittee must notify the Department orally or by e-mail prior to initial extralabel use of a drug.
 1. The notification must include a description of the drug, its intended purpose, the method of application, the amount, concentration, and duration of the use, information on aquatic toxicity, and a description of how and why the use qualifies as an extralabel drug use under FDA requirements.
 2. *Within seven (7) days* of the initial notification the permittee must submit a written report that includes all of the information outlined in Section G.3.a(1) above. Notice must include documentation that a veterinarian has prescribed the drug for the proposed use. A copy of the veterinarian's prescription must be maintained on-site during treatment for Department review.
 3. If, upon review of information regarding the extralabel use of a drug pursuant to this section, the Department determines that significant adverse effects are likely to occur, it may deny, restrict or limit use of the drug.
4. **Investigational New Animal Drug (INAD).** The discharge of drugs authorized by the FDA for use during studies conducted under the INAD program is not authorized by this permit, unless in accordance with specific prior consent given in writing by the Department.
 - a. Initial report. The permittee must provide a written report to the Department for the proposed use of an INAD *within seven (7) days* of agreeing or signing up to participate in an INAD study. The written report must identify the INAD to be used, method of use, dosage, and disease or condition the INAD is intended to treat.
 - b. Evaluation and monitoring. *At least ninety (90) days prior to initial use* of an INAD at a facility, the permittee must submit for Department review and approval a study plan for the use of the drug that:

SPECIAL CONDITIONS

G. USE OF DRUGS FOR DISEASE CONTROL (cont'd)

1. Indicates the date the facility agreed or signed up to participate in the INAD study.
 2. Demonstrates that the minimum amount of drug necessary to evaluate its safety, efficacy, and possible environmental impacts will be used.
 3. Includes an environmental monitoring and evaluation program that at a minimum describes sampling strategies, analytical procedures, evaluation techniques and a timetable for completion of the program. Currently available data or literature that adequately characterizes the environmental fate of the INAD and its metabolite(s) may be proposed for consideration in determinations of environmental monitoring and evaluation programs required by the Department pursuant to this section.
- c. Notification. The permittee must notify the Department orally or by electronic mail *no more than forty-eight (48) hours after* beginning the first use of the INAD under the approved plan.

H. PESTICIDES AND OTHER COMPOUNDS

1. **General requirements.** All pesticides used at the facility must be applied in compliance with federal labeling restrictions and in compliance with applicable statute, Board of Pesticides Control rules and best management practices (BMPs). Chemicals or compounds not registered as pesticides and proposed for use at the facility must be identified in the permittee's application and may only be discharged to waters of the State with express approval in this permitting action. In accordance with Special Condition D of this permit, the permittee must notify the Department of any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system.
- a. Pesticides identified in the permittee's application. The following pesticides were identified in the permittee's application as currently being or potentially being in use:

Name	Freq. of Use	Concentration	Qty. Used/Year
Parasite-S	Not used in 5 years	37% solution	5 gallons (if needed).
Sodium Chloride	30 times/Year	3% solution	500 lbs.

SPECIAL CONDITIONS

H. PESTICIDES AND OTHER COMPOUNDS (cont'd)

- b. Other compounds identified in the permittee's application. The following compounds were identified in the permittee's application as currently being or potentially being in use. The permittee is authorized to discharge the following compounds. It is the Department's Best Professional Judgment (BPJ) that the incidental discharge of these chemicals will not cause or contribute to non-attainment of applicable water quality standards.

<u>Name</u>	<u>Freq. of Use</u>	<u>Concentration</u>	<u>Qty.Used/Year</u>
Ovadine Iodine	12 times/Year	100 – 200 ppm	15 gallons
MS-222	30 times/Year	100 ppm	100 grams

I. REOPENING OF PERMIT FOR MODIFICATIONS

In accordance with 38 M.R.S.A. § 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.

J. SEVERABILITY

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

ATTACHMENT A

ATTACHMENT: 2

DISINFECTANTS

OVADINE (PVP Iodine - Fish egg disinfectant) is a buffered 1% Iodine solution specifically formulated for use in disinfecting fish eggs. It contains 10% Povidone-Iodine (PVP Iodine) complex which provides 1% available iodine. It is an US FDA Low Regulatory Priority (LRP) for use as a disinfectant for fish eggs including salmon and trout eggs. It is widely used as a fish egg disinfectant in North America to reduce the transmission of diseases between generations of fish. One gallon (3.8 liters) ship weight is 11 lbs. Made In USA.

Sodium Thiosulfate (ST1/ST1A) can be used to neutralize iodine disinfectants.

USED AS AN EGG DISENFECTIONANT & FOOTBATH AT 100 MG/L.

USED ONE/MONTH +/-

QUANTITY USED PER YEAR; 2 GALLONS

ATTACHMENT 3

THERAPEUTIC AGENTS

An FDA-approved formalin (37 percent formaldehyde) that controls external protozoa, parasites and monogenetic trematodes on all cultured finfish, penaid shrimp and all finfish eggs. Protozoans controlled include: Ichthyophthirius spp. ("Ich"), Costia spp., Chilodonella spp., Epistylus spp., Trichodina spp. and Scyphidia spp. Monogenetic trematodes controlled include Gyrodactylus spp., Dactylogyrus spp. and Cleidodiscus spp. NADA #140-989.

PARASITE-S is the aqueous solution of formaldehyde gas (this is equivalent to formalin 37% or 37grams of formaldehyde in 100mL of solution). U.S.P. grade PARASITE-S contains not less than 37% (by weight) of formaldehyde gas per weight of water and 6 to 14% methanol.

USED AS AN EGG FUNGICIDE @ 1720 MG/L
USED FOR EXTERNAL PARASITIC CONTROL @ CONCENTRATIONS <225 MG/L
USED INFREQUENTLY, (NO USE IN PAST FIVE YEARS)
QUANTITIES USED; 5 GALLONS PER YEAR, IF NEEDED

SODIUM CHLORIDE 99% PURE

USED FOR EXTERNAL FUNGAL/PARASITIC CONTROL OF TROUT @
CONCENTRATIONS OF UP TO 30000 MG/L (3%)

USED 20 TO 30 TIMES PER YEAR

QUANTITIES USED/YEAR; 500 LBS.

ATTACHMENT 3, CONTINUED

MS- 222

TRICAINE METHANESULFONATE USED FOR SEDATION OF TROUT @
CONCENTRATIONS OF 80 TO 135 MG/L.

USED UP TO 30 TIMES PER YEAR

QUANTITIES USED; 100 GRAMS/YEAR

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

FACT SHEET

Date: August 11, 2015

MEPDES PERMIT: **ME0110451**
WASTE DISCHARGE LICENSE: **W008125-6F-H-R**

NAME AND ADDRESS OF APPLICANT:

**MOUNTAIN SPRINGS TROUT FARM
6 PICARD STREET
FRENCHVILLE, ME 04745**

COUNTY: **AROOSTOOK**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**MOUNTAIN SPRINGS TROUT FARM
6 PICARD STREET
FRENCHVILLE, ME 04745**

RECEIVING WATER / CLASSIFICATION: **ST. JOHN RIVER/CLASS B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **GARY PICARD**
(207)-592-4030
mtsprings@roadrunner.com

1. APPLICATION SUMMARY

- a. On March 3, 2015, the Department accepted as complete for processing an application from Mountain Springs Trout Farm (MSTF) for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0110451/ Maine Waste Discharge License (WDL) W-008125-6F-E-R, which was issued by the Department on May 5, 2010, and expired on May 5, 2015. The permit approved the discharge of a monthly average of 0.65 million gallons per day (MGD) and a daily maximum of 2.0 MGD of fish hatchery wastewater to the St. John River, Class B, from a commercial brook trout hatchery and rearing facility in Frenchville, Maine.

2. PERMIT SUMMARY

- a. Terms and conditions: This permitting action is carrying forward all the terms and conditions of the previous permitting actions except that it (please see Fact Sheet for more information on these summary items):
- 1 Eliminating the 2.0 MGD Daily Maximum flow limit;
 2. Amends language in the "Footnotes" section of Special Condition A;
 3. Establishes Condition G. *Use of Drugs for Disease Control*;
 4. Establishes Condition H. *Pesticides and Other Compounds* to replace Special Conditions K. *Therapeutic Agents* and L. *Disinfecting/Sanitizing Agents* from the 2006 permit; and
 5. Eliminates the formalin concentration limit and establishes a mass-based limit to allow for increased facility flexibility and management.
- b. History: This section provides a summary of recent/significant licensing and permitting actions and other significant regulatory actions completed for the MSTF.

April 25, 2005 – The Department issued MEPDES Permit #ME0110451 / Maine WDL #W-008125-5Q-A-N to MSTF for the discharge of a monthly average of 0.65 mgd and a daily maximum of 2.0 mgd of fish hatchery and rearing facility wastewater to the St. John River in Frenchville, Class B. The Permit / WDL was issued for a five-year term.

December 19, 2005 - The Department issued an Administrative Modification of MEPDES Permit #ME0110451 / Maine WDL #W-008125-5Q-A-N. The Modification revised required minimum monitoring frequencies for BOD₅, TSS, Fish on Hand, Formalin, and pH and revised the required sample type for total phosphorus and orthophosphate, based on Department Best Professional Judgment (BPJ) and consistent with other industry permitting actions.

February 5, 2008 – The Department issued a Minor Revision of MEPDES Permit #ME0110451 / Maine WDL #W-008125-5Q-A-N, eliminating seasonal monitoring requirements for total phosphorus and orthophosphate, based on monitoring conducted to date and pursuant to provisions established in the original permitting action.

October 6, 2008 – The Department issued Minor Revision #W-008125-5Q-C-R / MEPDES Permit #ME0110451 to revise effluent formalin limitations based on newly obtained toxicity data and a revision of the Department's BPJ of ambient water quality criteria.

July 16, 2009 – The Department issued Minor Revision #W-008125-5Q-D-M / MEPDES Permit #ME0110451 to revise effluent BOD₅ and TSS minimum monitoring frequency requirements from once / 2 weeks to once / month.

2. PERMIT SUMMARY (cont'd)

February 18, 2010 – The Department issued MEPDES Permit #ME0110451 / Maine WDL#W-008125-6F-E-R.

November 6, 2014 – The Department issued minor revision MEPDES Permit #ME0110451 / WDL #W-008125-6F-G-M eliminating the effluent limitations and monitoring requirements for biochemical oxygen demand.

February 27, 2015 – Mountain Springs Trout Farm submitted a timely application for renewal of its MEPDES Permit / Maine WDL. The application was accepted as completed for processing on March 3, 2015 and was assigned MEPDES Permit #ME0110451 / Maine WDL #W-008125-6F-H-R.

- c. Source Description: The following is a general description of MSTF provided as part of its March 3, 2015 General Application for Waste Discharge Permit. A map showing the location of the treatment facility is included as Fact Sheet **Attachment A**. A description of the facility is included as **Attachment B**. All facility wastewater discharges to an approximately 1,000 foot long alternating open and culverted ditch that travels under Route 1 and outlets to the St. John River.

Influent Water: Mountain Springs Trout Farm receives its source water from three springs located on site with yields of 75 gallons per minute (gpm), 20 gpm, and 100 gpm. It also has six artesian wells that provide a backup source of 800 gpm. These water sources are randomly distributed on the property. MSTF utilizes a 250-foot x 75-foot freshwater storage pond, with water distributed throughout the facility by gravity flow. Water is distributed to facility grow-out ponds via a 4-inch diameter distribution line and fed into the hatchery and production buildings via a 6-inch diameter line. The facility has the capability of blending storage pond water with well water to achieve optimum growing temperatures.

Hatchery Operation: Mountains Springs obtains brook trout eggs from its own brood stock supply, which are turned over approximately every 4-5 years. M maintains approximately 50 egg trays, located in twelve, 16-inch wide x 14-foot long x 6-inch deep (45 gallons operational volume) fiberglass troughs used for egg incubation, hatching, and first feeding. Troughs are arranged in rows of two, with flow rates of 5 gpm per row for egg incubation and 8 gpm during first feeding. Maximum flow in the hatchery is 48 gpm. Water temperature for incubating and first feeding is 42° F (5.5° C). The hatchery is operational from October when eggs are taken from brood stock, through January when fish are transferred into the other section of the hatchery.

Fish are kept in six, 6.5-foot diameter fiberglass semicircular tanks to for further growth. The tanks are set up to have two different operational water volumes, 225 gallons and 450 gallons based on the fish density, size, and ability to feed. Flow rates are varied depending on fish density with a maximum flow rate of 12 gpm per tank (72 gpm total).

2. PERMIT SUMMARY (cont'd)

Rearing Operation: The production building that contains four 9,000-gallon concrete circular tanks used primarily for growing fish to market size. Flow rates are variable depending on fish density, with a maximum flow rate of approximately 75 gpm per tank (300 gpm total). This part of the facility is in use year round for housing fingerlings that moved in from the hatchery building. On occasion one of these production tanks is used for brood stock.

MSTF also maintains five outdoor ponds for growing fish to market size. The ponds vary in size, consisting of: 140 feet x 150 feet (Pond G, approx. 1.1 million gallons), 140 feet x 50 feet (Pond H, approx. 370,000 gallons), 200 feet x 100 feet (Pond I, approx. 1 million gallons), 200 feet x 150 feet (Pond J, approx. 1.5 million gallons), and 250 feet x 125 feet (Pond K, approx. 1.6 million gallons). The ponds are designed with a sloped

bottom to facilitate fish removal, draining, and cleaning. The average operational depth is 3 feet at the upper ends and 10 feet at the lower ends.

These ponds are primarily used during the non-summer months, however on occasion they may be used during summer months when market conditions demand, such as when fish need to be held over until fall or the next spring. Supply water flows by gravity from the freshwater storage pond and the production building (reuse) through the rearing grow-out ponds as they progress down gradient. Flow rates are variable depending on fish density, season, and water temperature. The total maximum combined flow rate flow at the last downgradient pond is approximately 400 gpm, although this may be increased for an anticipated future increase in production. Maximum historical flow rates have been up to 800 gpm. MSTF also uses six, 12-foot diameter x approximately 2-foot deep (1,700-gallons) circular fiberglass tanks for temporary holding of fish prior to delivery or during grading.

MSTF uses an on-site quarantine building located at the end of the production building for experimental purposes. It consists of two, 6.5-foot diameter x 2-foot deep (450-gallon) circular fiberglass tanks with a combined flow rate of 20 gpm. This building uses influent water directly from one of the facility's gravity fed springs, and its flow-through and cleaning discharge is combined with the hatchery and production building cleaning flows and routed to the settling ponds.

- d. Wastewater Treatment: As described in **Attachment B** the MSTF is a gravity flow through facility. All hatchery building flows and production building cleaning flows are routed to the facility wastewater settling ponds. Hatchery and production building structures are equipped with in-tank solids removal capabilities. Once the solids are captured they are routed to the settling ponds.

2. PERMIT SUMMARY (cont'd)

Water flows through the production building via gravity to grow-out ponds for reuse. The grow-out pond water is discharged to an open ditch where it comeslingles with other facility wastewater flows that are discharged from the settling ponds. MSTF utilizes two, 100-foot x 35-foot x approximately 3-foot deep (78,540-gallon each) settling ponds. These are used on an alternating basis to provide wastewater settling.

The grow-out ponds are cleaned and maintained on an as needed basis, usually during the summer months after the fish have been moved off station. The ponds are drained through the standard flow-through procedure and flow from other ponds is temporarily redirected. The amount of time required to empty the settling ponds varies depending on the size of the pond, but ranges from one to seven days depending on condition. During the cleaning process, the pond bottom is scraped using a small tractor and solids are pushed to the deeper end of the pond, where the solids are vacuumed out by a vacuum truck and taken offsite for final disposal via land application. Both flow through and cleaning flows from the temporary holding tanks are routed to the facility settling ponds.

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective March 21, 2012) 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

Classification of major river basins, 38 M.R.S.A. § 467(15)(A)(3) classifies the St. John River (AU ID ME0101000116_116R) at the point of discharge as a Class B water. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(3) establishes classification standards for Class B waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the St. John River as "Category 2: Rivers and Streams Attaining Some Designated Uses - Insufficient Information for Other Uses."

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The Report lists all of Maine's fresh waters as, "Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury." Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "All freshwaters are listed in Category 4A (TMDL Completed) due to United States Environmental Protection Agency (USEPA) approval of a Regional Mercury TMDL. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters and many fish from any given water do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources." Pursuant to 38 M.R.S.A. § 420(1-B)(B), "a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11." However, pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519(2), the Department has made a best professional judgment determination to exempt fish hatcheries from applicability of the mercury rule.

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

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Applicability of National Effluent Guidelines: The USEPA has promulgated national effluent guidelines for the *Concentrated Aquatic Animal Production Point Source Category* at 40 CFR 451 Subpart A, *Flow-Through and Recirculating Systems Subcategory*. This subpart is applicable to discharges from a concentrated aquatic animal production facility that produces 100,000 pounds or more per year of aquatic animals in a flow-through or recirculating system. MSTF projects the maximum number of fish on station at any time to consist of: 75,000 1st year brook trout weighing 5,000 pounds, 5,000 2nd year trout weighing 1,000 pounds, and 250 broodstock, weighing 500 pounds. The facility-wide projected maximum of 6,500 pounds per year of aquatic animals is less than the 100,000 pounds per year applicability threshold and is therefore not categorically subject to regulation under this subpart.
- b. Flow: The previous permitting action established, and this permitting action is carrying forward, a monthly average discharge flow limitation of 0.65 (MGD). The following table summarizes effluent data reported on Discharge Monitoring Reports (DMRs) for the period of January 2010 through May 2015.

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

The Department reviewed 57 Discharge Monitoring Reports (DMRs) that were submitted for the period January 2010 – May 2015. A review of data indicates the following:

Flow (DMRs=57) Outfall #001A

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	0.65	0.18 – 0.38	0.28
Daily Maximum	2.0	0.22 – 0.55	0.34

The previous permitting action established a daily maximum discharge flow limitation of 2.0 MGD. The Department has determined that, especially in consideration of the data summarized above, that a daily maximum discharge flow limitation is not necessary to control the discharge to ensure the discharge does not cause or contribute to a violation of an applicable water quality standard, or to ensure that best practicable treatment is provided as required by the permit and Maine's water quality laws.

- c. Dilution Factors: Dilution factors associated with the permitted monthly average discharge flow of 0.65 MGD were derived in accordance with 06-096 CMR 530(4)(A) and were calculated as follows:

$$\text{Mod. Acute: } \frac{1}{4} 1Q10 = 171 \text{ cfs} \Rightarrow \frac{(171 \text{ cfs})(0.6464) + 0.65 \text{ MGD}}{0.65 \text{ MGD}} = 171:1$$

$$\text{Acute: } 1Q10 = 683 \text{ cfs} \Rightarrow \frac{(683 \text{ cfs})(0.6464) + 0.65 \text{ MGD}}{0.65 \text{ MGD}} = 680:1$$

$$\text{Chronic: } 7Q10 = 696 \text{ cfs} \Rightarrow \frac{(696 \text{ cfs})(0.6464) + 0.65 \text{ MGD}}{0.65 \text{ MGD}} = 693:1$$

$$\text{Harmonic Mean} = 3,579 \text{ cfs} \Rightarrow \frac{(3,579 \text{ cfs})(0.6464) + 0.65 \text{ MGD}}{0.65 \text{ MGD}} = 3,560:1$$

It is noted that the Department has obtained new, more accurate receiving water flow data since issuance of the previous permit. The previous permitting action utilized 1Q10, 7Q10 and harmonic mean flows of 248 cfs, 773.5 cfs, and 2,318.6 cfs, respectively, for the St. John River at the point of discharge. The updated river flow data results in revised dilution factors seen above.

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

d. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS):

The 2010 MEPDES permit established effluent limitations and monitoring requirements for both BOD₅ and TSS. It is noted that the November 6, 2014 minor permit revision issued by the Department eliminated the limitations and monitoring requirements for BOD₅. The basis for that action is discussed in the November 6, 2014 minor permit revision; however, it is being reiterated in this fact sheet as a matter of historical documentation.

Neither the USEPA nor Department has promulgated effluent limitation guidelines for BOD₅ or TSS that are applicable to the discharge from MSTF. The previous permitting action established monthly average and daily maximum concentration limits of 6 mg/L and 10 mg/L respectively for BOD₅ and TSS based on Department BPJ of Best Practicable Treatment (BPT).

The Department's Division of Environmental Assessment (DEA) reviewed fish hatchery information in consideration of using TSS as a surrogate for BOD₅. It should be noted that TSS is more closely related to problems most commonly encountered at aquatic animal facilities, such as phosphorus enrichment and solids control, than is BOD₅. BOD₅ can cause depressed dissolved oxygen in the receiving waters and increased carbon levels may create a favorable environment for nuisance bacterial/fungal growth such as *Sphaerotilus natans* that may result in non-attainment of narrative water quality standards.

After reviewing approximately 6 years of BOD₅ and TSS and data, the Department concluded that the results of the two parameters showed a strong correlation. Therefore, the Department concluded that TSS could be relied upon to reflect BOD₅ conditions. Whereas: 1) the MSTF operations and processes are not likely to change; 2) the Department has a statistically significant BOD₅ data set from this and multiple similar hatcheries; 3) neither the USEPA nor Department have promulgated numeric effluent guidelines for BOD₅ for the *Flow-Through and Recirculating Systems Subcategory*; and 4) in the best professional judgment of the Department, effluent limitations for BOD₅ are still not necessary to ensure compliance with water quality standards. The November 6, 2014 minor permit revision eliminated the effluent limitations and monitoring requirements for BOD₅ based on this new information that was not available at the time the previous permit was issued. The limitations for TSS were not revised subsequent to the 2010 MEPDES permit.

The mass-based limits for TSS were calculated as follows:

Monthly Average Mass Limit: $(6 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.65 \text{ MGD}) = 33 \text{ lbs./day}$

Daily Maximum Mass Limit: $(10 \text{ mg/L})(8.34 \text{ lbs./day})(0.65 \text{ MGD}) = 54 \text{ lbs./day}$

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

A summary of TSS data as reported on the DMRs submitted to the Department for the period of December 2010 – February 2015 is as follows:

TSS concentration (DMRs = 57)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	6	0.90 – 6.50	2.12
Daily Maximum	50	0.90 – 6.50	2.12

TSS Mass (DMRs = 57)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	33	0.37 – 1.90	5.15
Daily Maximum	54	0.37 – 1.90	5.15

This permitting action carries forward the minimum monitoring frequency requirement of 1/Month for TSS.

- e. Total Phosphorus: The previous permitting action did not establish effluent limitations or monitoring requirements for total phosphorous stating that “the Department determined that the average effluent total phosphorus concentration and mass values observed for Mt. Springs Trout Farm fell below the Department’s calculated water quality based critical thresholds by at least three orders of magnitude and therefore did not represent reasonable potentials to exceed the critical thresholds.” See page 10 of Fact Sheet W008125-6F-E-R.

Waste Discharge License Conditions, 06-096 CMR 523 (effective January 12, 2001) specifies that water quality based limits are necessary when it has been determined that a discharge has a reasonable potential to cause or contribute to an excursion above any State water quality standards including State narrative criteria⁴. In addition, 06-096 CMR 523 specifies that water quality-based limits may be based upon criterion derived from a proposed State criterion, or an explicit State policy or regulation interpreting its narrative water quality criterion, supplemented with other relevant information which may include: *EPA's Water Quality Standards Handbook, October 1983*, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current USEPA criteria documents⁵.

USEPA's Quality Criteria for Water 1986 (Gold Book) puts forth an in-stream phosphorus concentration goal of less than 0.1 mg/L in streams or other flowing waters not discharging directly to lakes or impoundments, to prevent nuisance algal growth. The use of the 0.1 mg/L Gold Book value is consistent with the requirements of 06-096 CMR 523 noted above for use in a reasonable potential (RP) calculation.

⁴ *Waste Discharge License Conditions*, 06-096 CMR 523(5)(d)(1)(i) (effective date January 12, 2001)

⁵ 06-096 CMR 523(5)(d)(1)(vi)(A)

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

Based on the above rationale, the Department has chosen to utilize the Gold Book value of 0.1 mg/L. It is the Department's intent to continue to make determinations of actual attainment or impairment based upon environmental response indicators from specific water bodies. The Gold Book value of 0.1 mg/L in the RP calculation will enable the Department to establish water quality based limits in a manner that is reasonable and that appropriately establishes the potential for impairment, while providing an opportunity to acquire environmental response indicator data, numeric nutrient indicator data, and facility data as needed to refine the establishment of site specific water quality based limits for phosphorus. This permit may be reopened during the term of the permit to modify any reasonable potential calculations, phosphorus limits, or monitoring requirements based on new site-specific data.

Based on available total phosphorous monitoring data from 2005 through 2007 (n-18), the effluent concentration of total phosphorous is 0.026 mg/L.

For the background concentration in the St. John River, the Department is using an ambient concentration of 0.0085 mg/L based on ambient water quality monitoring data collected in September 2014 from the St. John River upstream from the point of discharge. The Department's draft ambient water quality criterion for Class B waters is 0.030 mg/L for phosphorus.

Using the following calculation and criteria, MSTF does not have a reasonable potential to exceed either the USEPA's Total P Ambient Water Quality Goal of 0.1 mg/L (100 ug/L) for phosphorus for rivers and streams not feeding lakes, or the Department's draft ambient water quality criterion of 0.030 mg/L for phosphorus:

6 EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Reasonable Potential Analysis

$$Cr = \frac{Q_e C_e + Q_s C_s}{Q_r}$$

Q _e = effluent flow	=	0.65 MGD
C _e = effluent pollutant concentration	=	0.026 mg/L
Q _s = 7Q10 flow of receiving water	=	449 MGD
C _s = upstream concentration	=	0.0085 mg/L
Q _r = receiving water flow (449 MGD + 0.65 MGD)	=	449.65 MGD
Cr = receiving water concentration		

$$Cr = \frac{(0.65 \text{ MGD} \times 0.026 \text{ mg/L}) + (449 \text{ MGD} \times 0.0085 \text{ mg/L})}{449.65 \text{ MGD}} = 0.0085 \text{ mg/L}$$

$$Cr = 0.0085 \text{ mg/L} < 0.1 \text{ mg/L} \quad \Rightarrow \quad \text{No Reasonable Potential}$$

$$Cr = 0.0085 \text{ mg/L} < 0.030 \text{ mg/L} \quad \Rightarrow \quad \text{No Reasonable Potential}$$

Based on this reasonable potential calculation and conclusion that the discharge of treated wastewater from the MSTF does not have a reasonable potential to exceed applicable water quality thresholds for phosphorous. The Department is making a best professional judgment determination that routine effluent monitoring for total phosphorous is not necessary. The permittee must notify the Department of any substantial change in the volume or character of pollutants, including but not limited to an increase in the phosphorous content in the effluent, being introduced into the wastewater collection and treatment system.

- f. Fish on Hand: Previous permitting action established daily maximum and monthly average fish on hand mass reporting requirements. The fact sheet associated with the previous permit states, that the fish on hand monitoring and reporting requirement "is intended to enable both the Department and the permittee in evaluating management practices at the facility and trends in effluent quality and receiving water impacts."

A summary of the fish on hand data as reported on the DMRs submitted to the Department for the period June 2010 through March 2015 follows.

Fish on Hand Mass (DMRs=55)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	Report	978 – 5,807	3,353
Daily Maximum	Report	1,032 – 5,925	3,501

The permittee is required to maintain records for fish rearing units documenting the feed amounts and estimates of the numbers and weight of fish pursuant to **Special Condition F** of the permit. The Department considers direct reporting of fish on hand data on monthly

6 EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Discharge Monitoring Reports valuable for purposes of assisting in the diagnosis of operational/effluent problems and ultimately to effectively and efficiently respond to compliance problems at fish hatcheries, when they occur. However, after review of the data, the Department believes that a once per month daily maximum mass reporting requirement is sufficient for purposes of assisting in compliance evaluations. Therefore, the daily maximum fish on hand mass reporting requirement is being carried forward in this permitting action and the monthly average reporting requirement is being eliminated.

- g. Formalin: Formalin is a drug used to treat fungal infections and external parasites of finfish and finfish eggs. The previous permitting action established daily maximum concentration and mass effluent limitations of 1,667 mg/L and 7.6 lbs./day, respectively, for 1-hour formalin treatments and 1,570 mg/L and 7.6 lbs./day, respectively, for 24-hour formalin treatments.

Neither the Department nor USEPA have promulgated ambient water quality criteria for formalin. Using best professional judgment, the Department has established water quality-based thresholds for formalin based on Whole Effluent Toxicity (WET) testing on the water flea (*Ceriodaphnia dubia*) for 48-hour acute toxicity. For one-hour treatments, which are typical of most hatchery and rearing facility operations, the Department has established an ambient water quality threshold of 45 mg/L. Rarely, certain circumstances require use of formalin to control disease on additional rearing structures which results in the discharge of formalin for periods longer than the typical one-hour period for normal disease treatment. To ensure water quality standards are met and that formalin is not discharged at levels that would be toxic to aquatic life in the receiving water, the Department has established an ambient water quality threshold of 25 mg/L based on best professional judgment for a maximum 24-hour treatment period.

Water quality-based effluent limitations for formalin were calculated as follows:

45 mg/L (1-hour acute criteria) x 62.8 (effluent dilution) = 2,826 mg/L formalin limit.
25 mg/L (24-hour acute criteria) x 62.8 (effluent dilution) = 1,570 mg/L formalin limit.

The May 17, 2010 WDL/MEPDES permit states "*The previously established daily maximum formalin mass limit of 7.6 lbs/day, developed pursuant to Chapter 523.6(f) based on projected use at Mt. Springs, is being carried forward in this permitting action. It must be noted that the concentration and mass limits are derived separately and that compliance with one does not guarantee compliance with the other. Throughout the term of the permit, the permittee shall report the monthly average effluent formalin mass and concentration. Effluent values shall be determined through calculations, as described below.*"

6 EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

This permitting action is carrying forward the daily maximum mass limitation of 7.6 lbs./day for formalin to ensure the discharge does not violate receiving water quality standards. The Department is identifying in this permitting action that the concentration limitations are not necessary to ensure water quality standards are achieved and has determined that these limitations would not have been established at the time the previous permit was issued based on the new information that has been obtained since issuance of the previous permit. 40 CFR 122.44(l)(2)(i)(B)(1) contains an exception to anti-backsliding for information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance.

This permitting action is carrying forward the minimum monitoring frequency requirement of once per occurrence for formalin. The permittee has reported no use of formalin since January 2010.

7. OPERATIONS AND MAINTENANCE (O&M) PLAN

The previous permitting action established Special Condition F, *Operation and Maintenance (O&M) Plan*, which is contained in the majority of MEPDES permits and all fish hatchery permits. In this permitting action, the Department is revising the condition to incorporate and require inclusion of specific best practicable control technology currently available practices pursuant to 40 CFR 451.11. In addition to the previous requirements of the O&M Plan, the revised O&M Plan must ensure the following items are adequately addressed:

1) solids control; 2) materials storage; 3) structural maintenance; 4) recordkeeping; and 5) training.

The previous permitting action established Special Condition H, *Settling Basin Cleaning*. Through inclusion of the revised O&M Plan the need for a separate condition for settling basin cleaning is redundant and is therefore being eliminated.

8. USE OF DRUGS FOR DISEASE CONTROL AND PESTICIDES AND OTHER COMPOUNDS

The previous permitting action established Special Condition H, *Disease and Pathogen Control and Reporting*, Special Condition I, *Therapeutic Agents*, and Special Condition J, *Disinfecting/Sanitizing Agents*. The Department is restructuring and consolidating conditions for drugs, pesticides, and chemicals or compounds not registered as pesticides under two new Special Conditions in the permit. Restructuring of the conditions is consistent with the conditions established in other MEPDES permits, namely *Net Pen Aquaculture General Permit* #MEG130000, April 10, 2014, which is the regulatory permit used by the majority of marine aquaculture facilities where the Atlantic salmon are reared.

8. USE OF DRUGS FOR DISEASE CONTROL AND PESTICIDES AND OTHER COMPOUNDS (cont'd)

Special Condition G, *Use of Drugs for Disease Control*, contains conditions for U.S. Food and Drug Administration (FDA)-approved drugs, extralabel drug use, and investigational new animal drugs (INADs).

MSTF provided, on Form DEPLW1999-18 included with its March 3, 2015 General Application for Waste Discharge Permit, a list of drugs, pesticides, and chemicals or compounds proposed for use at the hatchery during the term of the permit. The discharge of drugs associated with treatment is subject to all terms and conditions of Special Condition G of the permit. Only FDA-approved drugs that are identified in MSTF March 3, 2015 General Application for Waste Discharge Permit may be used without additional written approval from the Department.

Special Condition H, *Pesticides and Other Compounds*, contains conditions for the use of pesticides registered with both the United States Environmental Protection Agency (USEPA) and Maine Board of Pesticides Control (BPC) and other chemicals and compounds that are neither defined as drugs nor pesticides, but are used, primarily, for cleaning and disinfection. Any chemical or compound proposed for use at the facility during the term of the permit not identified in the application or authorized in the permit must be reported to the Department in accordance with Special Condition D, *Notification Requirements* of the permit.

9. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

10. PUBLIC COMMENTS

Public notice of this application was made in the *St. John Times* newspaper on or about February 18, 2015. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

11. DEPARTMENT CONTACTS

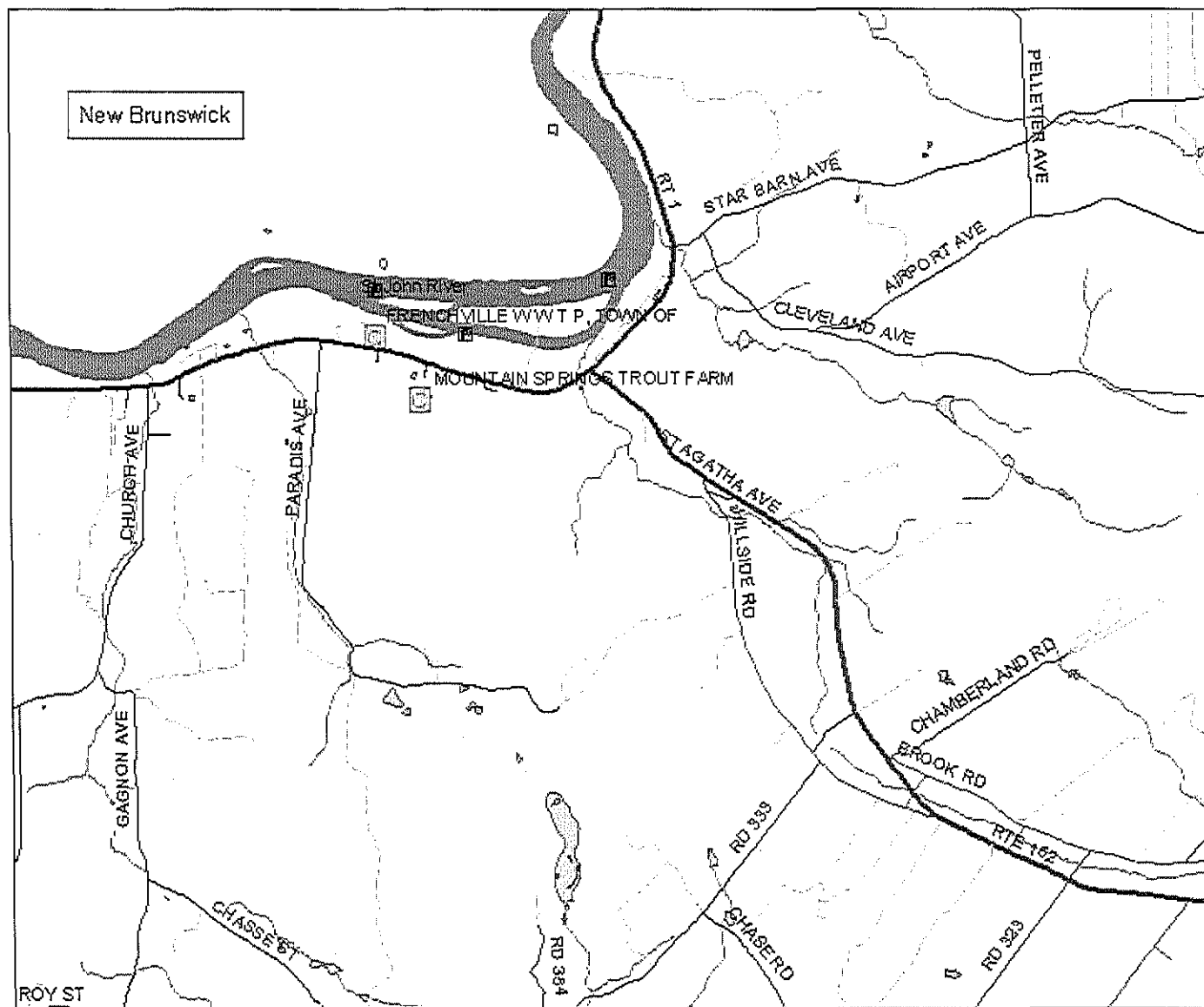
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Aaron Dumont
Division of Water Quality Management
Bureau of & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 592-7161
e-mail: Aaron.A.Dumont@maine.gov

12. RESPONSE TO COMMENTS

During the period of September 11, 2015 through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. The Department did not receive any substantive comment on the draft permit. It is noted that minor 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 0.2 0.4 0.8 1.2 1.6 Miles

Mtn Springs Trout Farm Frenchville, Maine

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

Legend

Rivers

	AA
	A
	B
	C

Streams

	AA
	A
	B
	C

Ponds and Lakes

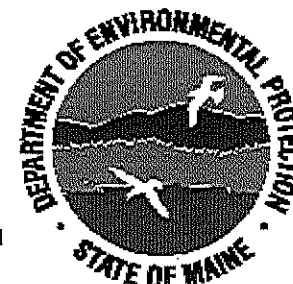
Wastewater_Facilities

Wastewater_Outfalls

Roads

JURISDICTION

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



ATTACHMENT B

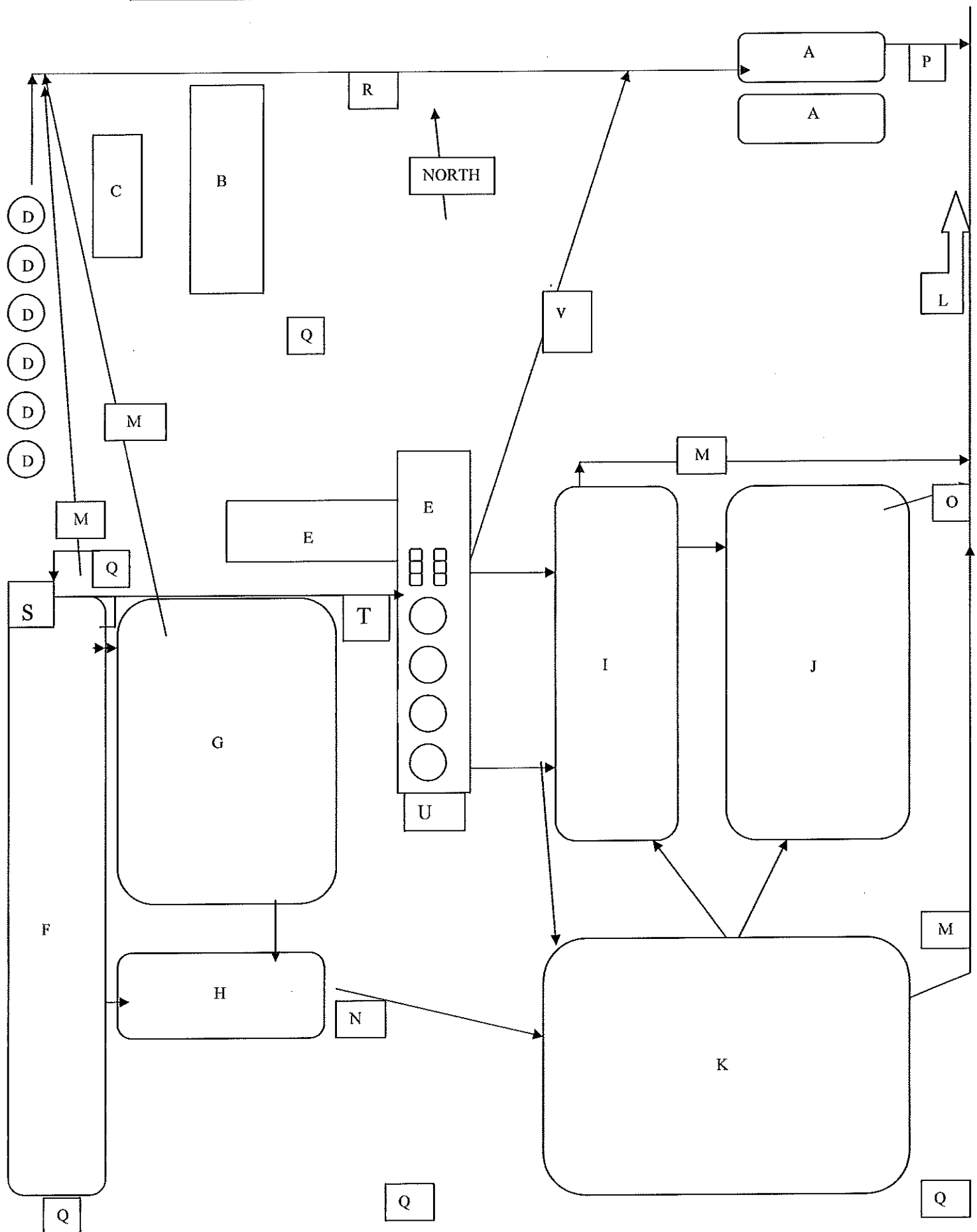
Description of Facility

Use as reference with facility layout

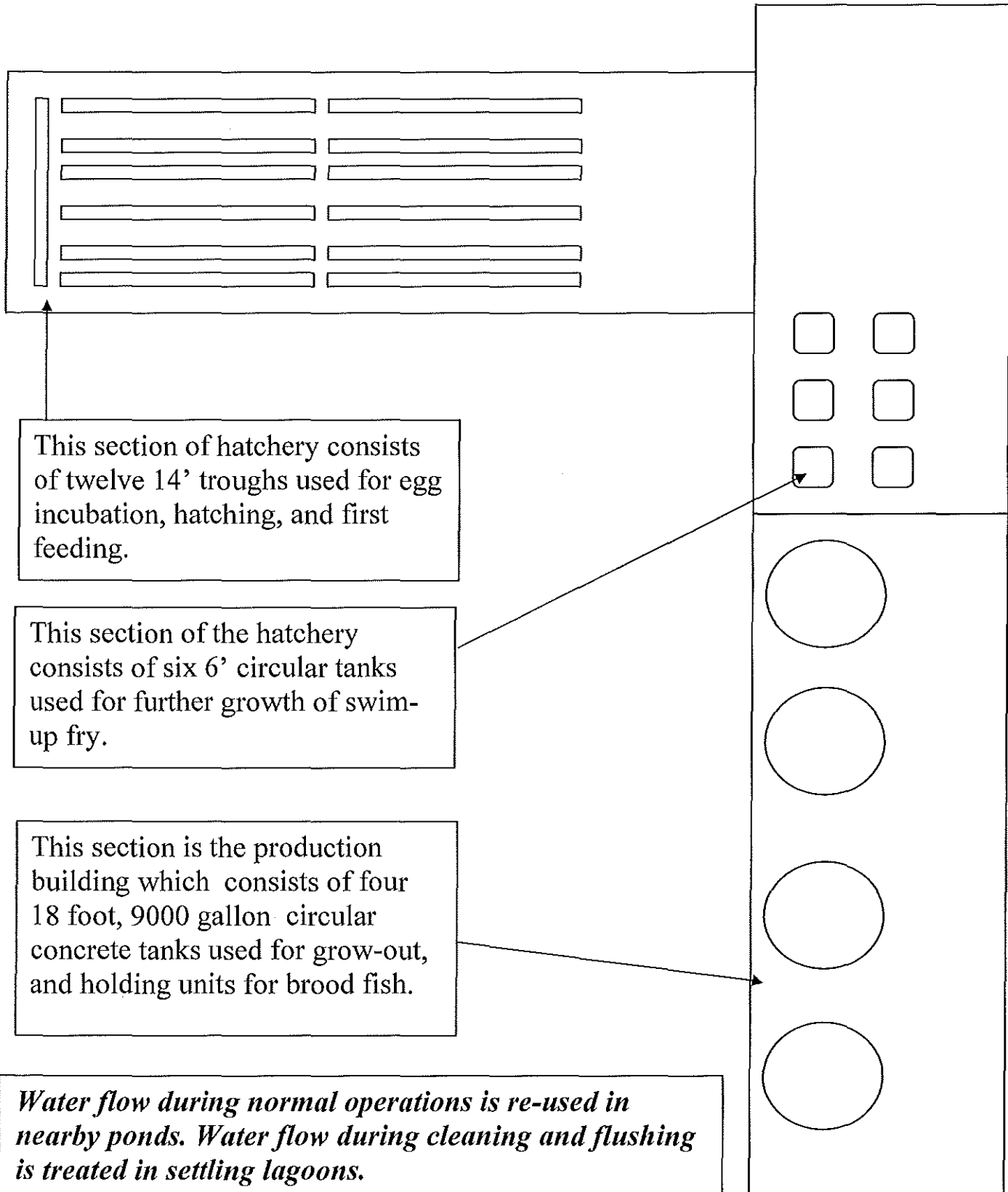
- A> Two 100' X 35' settling ponds, used alternately when one is being cleaned out.
- B> 100' X 50' metal storage building
- C> 30' X 40' building used for storage of feed & supplies, and also office space.
- D> Series of 12' circular fiberglass tanks used as temporary holding units for fish to be delivered. Flow from these tanks is directed into the settling ponds.
- E> These building are the hatchery & production buildings. You will find a description of these buildings on the following page.
- F> 250' X 75' reservoir used for distribution of water. Not used as a growout pond.
- G> 140' X 150' growout pond, used to grow fish to market size.
- H> 140' X 50' growout pond used to grow fish to market size.
- I> 200' X 100' growout pond use to grow fish to market size.
- J> 200' X 150' growout pond used to grow fish to market size.
- K> 250' X 125' growout pond used to grow fish to market size.
- L> This is the area of the drainage where the hatchery water flows into. Note that the arrow indicates direction of water flow.
- M> These are the outlets of ponds used only for draining.
- N> These are the outlets of ponds that direct normal water flow.
- O> This is the outfall from all water flow. This is also the location of the weir where total flow is measured and samples are collected for compliance testing. Note that facility reuses water from pond to pond. This is possible because of elevation, F is the highest point, J and A are the lowest points.
- P> This is the outfall from the settling ponds, used for cleaning operations only.
- Q> These are the springs and wells that supply water to the facility.
- R> These indicate a line or ditch that directs water to settling ponds during cleaning operations.
- S> Well water degassing column & water temperature mixing valves.
- T> Six inch line that feeds water from the reservoir and degassing column to the production building.
- U> Experimental quarantine building used for rainbow smelt culture.
- V> Six inch line which directs effluent water from cleaning to the settling ponds.

Note that all other arrows not labeled indicate normal water flow from pond to pond. Also note that the drawing is not a true scale of size and distance.

Facility Layout



FISH HATCHERY DETAIL



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

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A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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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

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

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

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

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

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

5. Publicly owned treatment works.

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

E. OTHER REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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