



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



PAUL MERCER  
COMMISSIONER

March 15, 2016

Mr. Bryan Osgood  
Covanta Maine, LLC.  
P.O. Box 317  
West Enfield, ME 04493  
[bosgood@covanta.com](mailto:bosgood@covanta.com)

*Sent via electronic mail  
Delivery confirmation requested*

**RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0023213  
Maine Waste Discharge License (WDL) Application # W006116-5S-I-R  
Proposed Draft MEPDES Permit Renewal**

Dear: Bryan Osgood

Enclosed is a proposed draft MEPDES permit and Maine WDL which the Department proposes to issue for your facility as a final document after opportunity for your review and comment. By transmittal of this letter, you are provided with an opportunity to comment on the proposed draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies, as required by our new regulations, and from any other parties who have notified the Department of their interest in this matter.

If you have any questions regarding the matter, please feel free to call me.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Tuesday, April 12, 2016**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted.

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

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

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

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

Bryan Osgood  
March 15, 2016  
Page 2 of 2

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](mailto:Aaron.A.Dumont@maine)

If you have any questions regarding the matter, please feel free to call me at (207)-592-7161.

Sincerely,



Aaron Dumont  
Division of Water Quality Management  
Bureau of Water Quality  
[Aaron.A.Dumont@maine.gov](mailto:Aaron.A.Dumont@maine.gov)  
Phone: 207-592-7161

Enclosure

cc: Tanya Hovell, DEP/EMRO  
Lori Mitchell, DEP/CMRO  
Alex Rosenberg, EPA  
David Webster, EPA  
David Pincumbe, EPA  
Olga Vergara, EPA  
Marelyn Vega, EPA  
Richard Carvalho, EPA  
Dan Kusnier, Penobscot Nation  
DMR Environmental Review  
IF&W Environmental Review



DEPARTMENT ORDER

IN THE MATTER OF

COVANTA MAINE, LLC	)	MAINE POLLUTANT DISCHARGE
ENFIELD, PENOBSCOT COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
ELECTRIC GENERATING STATION	)	AND
ME0023213	)	WASTE DISCHARGE LICENSE
W006116-5S-I-R	)	<b>RENEWAL</b>
<b>APPROVAL</b>	)	

In compliance with the provisions of the *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, *et seq.*, and applicable rules of the, the Department of Environmental Protection (Department) has considered the application of COVANTA MAINE, LLC (Covanta), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On September 1, 2015, the Department accepted as complete for processing an application from Covanta for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0023213/ Maine Waste Discharge License (WDL) #W006116-5S-H-R, which was issued by the Department on October 14, 2010, and expired on October 14, 2015. The permit approved the discharge of 1) a daily maximum of 150,000 gallons per day (gpd) of cooling tower blowdown; 2) a daily maximum of 1,000 gpd of miscellaneous equipment drain water; and 3) a daily maximum of 36,000 gpd of cooling tower sandfilter backwash water to the Penobscot River, Class B, in Enfield, Maine. The 10/15/10 permit also incorporated limitations and monitoring requirements for the discharge of stormwater runoff associated with industrial activities from five outfalls.

**PERMIT SUMMARY**

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

- 1) This permitting action is eliminating conditions and authorization for stormwater discharges. Stormwater associated with this industrial facility must be covered under the Department's *Multi-Sector General Permit Stormwater Associated with Industrial Activity*, MER050000.
- 2) This permit is eliminating the year-round temperature monitoring requirement and establishing a seasonal monitoring requirement for the critical season of June 1<sup>st</sup> through September 30<sup>th</sup> in accordance with *Regulations Relating to Temperature*, 06-096 CMR 582, in order to provide consistency for MEPDES permits in this category.

**PERMIT SUMMARY (cont'd)**

- 3) This permitting action is establishing an annual testing requirements and limitations for chromium and total zinc for cooling down blowdown in accordance with newly promulgated National Effluent Guidelines 40 CFR Part 423.13(d)(1).

**CONCLUSIONS**

Based on the findings summarized in the attached and incorporated Fact Sheet dated March 15, 2016, and subject to the special and standard conditions that follow, the Department makes the following CONCLUSIONS:

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

**ACTION**

Based on the findings and conclusions as stated above, the Department APPROVES the above noted application of COVANTA MAINE, LLC. to discharge a daily maximum of 187,000 gallons per day of wastewater consisting of 1) a maximum of 150,000 gpd of cooling tower blowdown; 2) a maximum of 1,000 gpd of miscellaneous equipment drain water; and 3) a maximum flow of 36,000 gpd of cooling tower sandfilter backwash waters, to the Penobscot River, Class B, in Enfield, 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 becomes effective upon the date of signature below and expires at midnight five (5) years after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective October 19, 2015)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS \_\_\_ DAY OF \_\_\_\_\_ 2016.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
PAUL MERCER, Commissioner

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

Date of initial receipt of application August 27, 2015  
Date of application acceptance September 1, 2015

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge consisting of 1) a maximum of 150,000 gpd of cooling tower blowdown from **Outfall #001** to the Penobscot River in Enfield. Such discharges are limited and must be monitored by the permittee as specified below<sup>(1)(2)</sup>:

**OUTFALL #001 – Cooling Tower Blowdown**

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
<b>Flow</b> <i>[50050]</i>		150,000 GPD <i>[03]</i>	---	---	Continuous <i>[99/99]</i>	Meter <i>[MT]</i>
<b>Free Available Chlorine<sup>(4)</sup></b> <i>[50064]</i>	---	---	0.2 mg/L <i>[19]</i>	0.5 mg/L <i>[19]</i>	1/Week <i>[01/07]</i>	Grab <i>[GR]</i>
<b>Temperature<sup>(5)</sup></b> <i>[00011]</i>	---	---	---	85°F <i>[15]</i>	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>
<b>Total Chromium</b> <i>[01034]</i>			0.2 mg/L <i>[19]</i>	0.2 mg/L <i>[19]</i>	1/Year <i>[01/YR]</i>	Grab <i>[GR]</i>
<b>Total Zinc</b> <i>[01092]</i>			1.0 mg/L <i>[19]</i>	1.0 mg/L <i>[19]</i>	1/Year <i>[1/YR]</i>	Grab <i>[GR]</i>
<b>pH (Std. Unit)</b> <i>[00400]</i>	---	---	---	6.0 – 9.0 SU <i>[12]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>

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 Page 7 of this permit for applicable footnotes.

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

2. The permittee is authorized to discharge consisting of a maximum of 1,000 gpd of miscellaneous equipment drain water from **Outfall#002** to the Penobscot River in Enfield. Such discharges are limited and must be monitored by the permittee as specified below<sup>(1)(2)</sup>:

**OUTFALL #002 – Low Volume Miscellaneous Equipment Drain Water**

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
<b>Flow</b> <i>[50050]</i>		1,000 GPD <i>[03]</i>	---	---	Continuous <i>[99/99]</i>	Meter <i>[MT]</i>
<b>TSS</b> <i>[00530]</i>			30 mg/L <i>[19]</i>	100 mg/L <i>[19]</i>	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>
<b>Oil &amp; Grease</b> <i>[00552]</i>	---	---	15 mg/L <i>[19]</i>	20 mg/L <i>[19]</i>	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>
<b>Temperature<sup>(5)</sup></b> <i>[00011]</i>	---	---	---	80°F <i>[15]</i>	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>
<b>pH (Std. Unit)</b> <i>[00400]</i>	---	---	---	6.0 – 9.0 SU <i>[12]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>

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 Page 7 of this permit for applicable footnotes.

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

3. The permittee is authorized to discharge consisting of a maximum flow of 36,000 gpd of sandfilter backwash waters from **Outfall #003** to the Penobscot River in Enfield. Such discharges are limited and must be monitored by the permittee as specified below<sup>(1)(2)</sup>:

**OUTFALL #003 – Sandfilter Backwash Waters**

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

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
<b>Flow</b> <i>[50050]</i>	Report <i>[03]</i>	36,000 GPD <i>[03]</i>	---	---	Continuous <i>[99/99]</i>	Meter <i>[MT]</i>
<b>TSS<sup>(3)</sup></b> <i>[00530]</i>			30 mg/L <i>[19]</i>	100 mg/L <i>[19]</i>	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>
<b>pH (Std. Unit)</b> <i>[00400]</i>	---	---	---	6.0 – 9.0 SU <i>[12]</i>	1/Month <i>[01/30]</i>	Grab <i>[GR]</i>

Discharge Monitoring Reports.

**Footnotes:** See Pages 7 of this permit for applicable footnotes.



## **SPECIAL CONDITIONS**

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

#### **Footnotes:**

- 1. Sampling** – The permittee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
- 2. Priority Pollutants** – Pursuant to 40 CFR Part 423.13(d)(1), there shall be no detectable levels of the 126 priority pollutants as specified in *Appendix A to Part 423 – 126 Priority Pollutants*.
- 3. Total Suspended Solids (TSS)** – The grab sample for total suspended solids for Outfall #003 must be collected within the first four minutes of the commencement of the discharge cycle.
- 4. Free Available Chlorine (FAC)/Total Residual Chlorine (TRC)** – Pursuant to 40 CFR, Part 423.12(b)(8), neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available chlorine nor total residual chlorine at any time unless the utility can demonstrate to the Department that the units cannot operate at or below this level of chlorination.
- 5. Temperature Monitoring** – Temperature monitoring for Outfall #001 and #002 are only required during the months of June, July, August, and September of each year.

### **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 wastewater 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.

## **SPECIAL CONDITIONS**

### **B. NARRATIVE EFFLUENT LIMITATIONS (cont'd)**

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 September 1, 2015; 2) the terms and conditions of this permit; and 3) only from internal Outfall #001, #002, and #003. Discharges of wastewater from any other point source are not authorized under this permit, and must be reported in accordance with Standard Condition D(f)(1), *Twenty-four hour reporting*, of this permit.

### **D. NOTIFICATION REQUIREMENT**

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

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

## SPECIAL CONDITIONS

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

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

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

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

### F. MONITORING AND REPORTING

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

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

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

## **SPECIAL CONDITIONS**

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

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.

### **I. SEVERABILITY**

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

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

**FACT SHEET**

DATE: **March 15, 2016**

PERMIT NUMBER: **ME0023213**

WASTE DISCHARGE LICENSE: **W006116-5S-I-R**

NAME AND ADDRESS OF APPLICANT:

**COVANTA MAINE, LLC.  
P.O. BOX 317  
WEST ENFIELD, MAINE 04493**

COUNTY: **PENOBSCOT**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

**COVANTA MAINE, LLC.  
1231 MAIN ROAD  
WEST ENFIELD, MAINE 04493**

RECEIVING WATER CLASSIFICATION: **PENOBSCOT RIVER/CLASS B**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**MR. BRYAN OSGOOD  
(207) 732-4151  
[bosgood@covanta.com](mailto:bosgood@covanta.com)**

**1. APPLICATION SUMMARY**

On September 1, 2015, the Department of Environmental (Department) accepted as complete for processing an application from Covanta Maine, LLC. (Covanta) for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0023213/ Maine Waste Discharge License (WDL) #W006116-5S-H-R, which was issued by the Department on October 14, 2010, and expired on October 14, 2015. The permit approved the discharge of 1) a daily maximum of 150,000 gallons per day (gpd) of cooling tower blowdown; 2) a daily maximum of 1,000 gpd of miscellaneous equipment drain water; and 3) a daily maximum of 36,000 gpd of cooling tower sandfilter backwash water to the Penobscot River, Class B, in Enfield, Maine. The 10/14/10 permit also incorporated limitations and monitoring requirements for the discharge of stormwater runoff associated with industrial activities from five outfalls.

## 2. PERMIT SUMMARY

- a. This permitting action is carrying forward all the terms and conditions of the previous permitting action except that this permitting action is:
- 1) This permitting action is eliminating conditions and authorization for stormwater discharges. Stormwater associated with this industrial facility must be covered under the Department's *Multi-Sector General Permit Stormwater Associated with Industrial Activity*, MER050000.
  - 2) This permit is eliminating the year-round temperature monitoring requirement and establishing a seasonal monitoring requirement for the critical season of June 1<sup>st</sup> through September 30<sup>th</sup> in accordance with *Regulations Relating to Temperature*, 06-096 CMR 582, in order to provide consistency for MEPDES permits in this category.
  - 3) This permitting action is establishing an annual testing requirements and limitations for chromium and total zinc for cooling down blowdown in accordance with newly promulgated National Effluent Guidelines 40 CFR Part 423.13(d)(1).
- b. History: This section provides a summary of recent/significant licensing and permitting actions and other significant regulatory actions completed for Covanta, LLC:

*April 24, 1985* - The Department issued WDL #W006116-44-A-N to Babcock Ultrapower West Enfield for a five-year term.

*June 25, 1985* - The U.S. Environmental Protection agency (USEPA) issued National Pollutant Discharge Elimination system (NPDES) permit #ME0023213 to Babcock-Ultrapower West Enfield for a five-year term.

*May 16, 1986* - The USEPA issued a permit modification of NPDES permit #ME0023213 which added Outfall #003, sandfilter backwash, to the permit.

*May 30, 1986* - The Department issued an amendment to WDL #W006116-44-A-N for the inclusion of Outfall #003.

*January 25, 1990* - Babcock Ultrapower West Enfield submitted a timely application to the EPA to renew NPDES permit # ME0023213. The EPA never acted on the renewal application.

*May 20, 1991* - The Department issued a renewal of the waste discharge license, WDL #W006116-42-D-R to Babcock UltraPower for a five-year term.

*October 10, 1996* - INDECK Power Overseas Limited acquired the West Enfield electric generating station from Babcock-Ultrapower.

*December 6, 1996* - The EPA issued a letter to INDECK Power Overseas Limited informing the company that NPDES permit #ME0023213 had been transferred from Babcock-Ultrapower to INDECK Power Overseas Limited.

## 2. PERMIT SUMMARY (cont'd)

*December 10, 1996* – The Department transferred all State licenses and permits held by Babcock-Ultrapower to INDECK Power Overseas Limited.

*January 14, 1997* – The Department issued a renewal of the waste discharge license, WDL #W006116-42-E-R to INDECK Power Overseas Limited for five-year term.

*June 5, 1997* – The Department issued an Order transferring all licenses/permits issued by the Department from INDECK Power Overseas Limited to Indeck Maine Energy LLC.

*June 6, 1997* – The EPA transferred NPDES permit #ME0023213 from INDECK Power Overseas Limited to Indeck Maine Energy, LLC.

*August 25, 1997* – The EPA issued a notice to Indeck Maine Energy, LLC informing them that their Notice of Intent (NOI) had been processed by the EPA and that they had coverage under the Multi-Sector General Permit for the discharge of stormwater associated with industrial activities.

*October 2000* – Indeck Maine Energy, LLC submitted a NOI to the EPA for authorization to discharge stormwater runoff from five outfalls under the terms and conditions of EPA's Multi-Sector General Permit (MSGP). The EPA subsequently granted coverage under the MSGP.

*January 12, 2001* – The Department received authorization from the USEPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program.

*September 12, 2003* – The Department issued WDL renewal WDL #W006116-5S-F-R for a five year term.

*July 26, 2005* – The Department modified and renewed the 9/12/03 WDL for the facility by incorporating the terms and conditions of the MEPDES permitting program and acknowledge the discharge of stormwater runoff associated with industrial activities.

*January 9, 2009* – Indeck Maine Energy, LLC submitted a letter to the Department notifying it that Covanta Maine LLC purchased Indeck Maine Energy LLC on December 22, 2008. The letter indicates the Department made the decision that said transaction does not require a transfer in Department permits/licenses as the legal entity that owns the facilities did not change.

*August 15, 2010* – The Department issued WDL #W006116-5S-H-R / MEPDES #ME0023213 for a five year term.

*August 27, 2015* – Covanta Maine LLC submitted a timely and complete application to the Department for renewal of the October 14, 2010 permit. The application was accepted for processing on September 1, 2015 and was assigned WDL #W006116-5S-I-R / MEPDES #ME0023213.

## 2. PERMIT SUMMARY (cont'd)

- c. Source Description: Covanta Maine, LLC operates a 24.5 megawatt steam electric power generating station that is fueled by biomass wood fuel in the Town of Enfield, Maine. The Covanta Enfield facility is a based-load biomass facility whereby wood chips are burned as fuel to produce steam used to generate electricity at a constant rate. Water used for steam in power generation is taken from the Penobscot River via an 8 inch intake pipe, and conveyed to the plant through a primary intake pipeline that parallels the discharge pipeline.

Wastewater generated at the facility comes from three different sources, cooling tower blowdown, internal equipment drain water, and sandfilter backwash. The amount of cooling tower blowdown and cooling water used to cool the steam turbines and generator varies, and is generated in direct correlation with the demand for electricity. Low volume building drain and equipment drain water is generated from equipment and drain inside the Covanta facility is considered intermittent. Prior to being discharged the low volume equipment drain and building drain wastewater is run through an oil/water separator prior to being discharged. This is the only wastewater stream that receives any formal treatment.

Covanta has a sandfilter that is used in filtering of river water for use in the generation of electricity. Routine maintenance requires that the sandfilter is backwashed. The sandfilter backwash is generated when there is a need to flush the filter is intermittent and dependent upon the demand for electricity. The process entails reversing direction on the pumps, which in turn reverses the flow of water through the sandfilter bed. This backwash water is then sent to the primary discharge pipe.

The independent waste streams described above are conveyed to a common outfall prior to discharge to the Penobscot River. The outfall pipe measures 4 inches in diameter that extends into the river approximately 100 feet, and is anchored to the riverbed via two 36 inch in diameter by 36 inch deep footings. The outfall pipe is fitted with a diffuser that is approximately 18 feet long with four (4) 2-inch diameter holes spaced four feet on center to enhance mixing of the discharge with the receiving waters. The outfall is located just upstream of the West Enfield Dam. A map showing the location of the facility and receiving water is included as Fact Sheet **Attachment A**.

- d. Wastewater Treatment: The only wastewater stream that receives any formal treatment is the low volume and equipment drain and building drain wastewater. This wastewater passes through an oil/water separator before being discharged to the Penobscot River. All sanitary wastewaters generated by employees at the facility are disposed of via an on-site subsurface wastewater disposal system.



### 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 (last amended 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(7)(A)(3) classifies the Penobscot River main stem, from the confluence of Cambolasse Stream to the West Enfield Dam, at the point of discharge, as Class B waters. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(3) describes the 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 19.08 mile long main stem segment of the Penobscot River from Cambolasse Stream to the Piscataquis River (Assessment Unit ID ME0102000502\_231R) as, "Category 4-B: Rivers and Streams Impaired by Pollutants - Pollution Control Requirements Reasonably Expected to Result in Attainment." The impairment in this context refers to the presence of dioxin, low dissolved oxygen and nutrient and eutrophication issues.

The Report lists all of Maine's fresh waters as, "Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury." The 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 4-A (TMDL Completed) due to 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 Health and Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources." Pursuant to 38 M.R.S.A. § 420(1-B)(B), "a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11." The Report also lists this segment of the 19.08 mile stretch of the Penobscot River as, "Category 5-D: Rivers and Streams Impaired by Legacy Pollutants." The impairment in this context refers to legacy polychlorinated biphenyls (PCBs) found in fish tissue monitoring that revealed legacy PCBs.

The Department has no information at this time that the discharge from Covanta, as permitted, will cause or contribute to the failure of the receiving water to meet the designated uses of its ascribed classification.

## 6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Applicability of National Effluent Guidelines: The discharge is subject to USEPA effluent guidelines for the *Steam Electric Generating Point Source Category* at 40 CFR Part 423. The wastewater discharges from internal outfalls #001 are categorized as cooling tower blowdown, #002 low volume wastewater from equipment and building drains, #003 sandfilter backwash water. Limits on parameters are specified to ensure attainment of the in-stream water quality criteria and that best practicable treatment (BPT) is utilized. Permits issued by the Department impose the more stringent of the calculated water quality based or BPT based limits. Applicable section of 40 CFR 423 include:

40 CFR Part 423.12(b)(3): Limits TSS and oil and grease from low volume waste sources.

40 CFR Part 423.12(b)(7): Limits free available chlorine in cooling tower blowdown.

40 CFR Part 423.13(d)(1): Limits total chromium and total zinc in cooling tower blowdown.

- b. Flow: The previous permitting action established three internal outfall points. The internal outfalls discharged through a common outfall that had flow comprised of a daily maximum flow of 150,000 gallons per day (gpd) of cooling tower blowdown, a daily maximum of 1,000 gpd of miscellaneous equipment drain water and a daily maximum flow of 36,000 gpd of cooling tower sandfilter backwash water. Flow from these monitoring points was derived as a best professional judgment of a limitation that was representative of discharge flows during normal operating conditions. This permitting action is carrying forward the internal monitoring points, and carrying forward a combined daily maximum flow limit of 187,000 gallons per day (gpd) for all wastewater sources identified in this subparagraph.
- c. Dilution Factors: The Department established applicable dilution factors for the discharge in accordance with freshwater protocols established in *Surface Water Toxics Control Program*, 06-096 CMR 530 (last amended March 21, 2012). This permitting action is calculating dilution factors associated with the combined discharge from all permitted sources of 187,000 GPD (0.187 MGD) as follows:

$$\text{Mod. Acute: } \frac{1}{4} Q_{10} = 674 \text{ cfs} \quad \Rightarrow \frac{(674 \text{ cfs})(0.6464) + 0.187 \text{ MGD}}{0.187 \text{ MGD}} = 2,330:1$$

$$\text{Acute: } 1Q_{10} = 2,697 \text{ cfs} \quad \Rightarrow \frac{(2,697 \text{ cfs})(0.6464) + 0.187 \text{ MGD}}{0.187 \text{ MGD}} = 9,324:1$$

$$\text{Chronic: } 7Q_{10} = 2,996 \text{ cfs} \quad \Rightarrow \frac{(2,996 \text{ cfs})(0.6464) + 0.187 \text{ MGD}}{0.187 \text{ MGD}} = 10,357:1$$

$$\text{Harmonic Mean} = 7,571 \text{ cfs}^1 \quad \Rightarrow \frac{(7,571 \text{ cfs})(0.6464) + 0.187 \text{ MGD}}{0.187 \text{ MGD}} = 26,172:1$$

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

- c. Temperature: *Regulations Relating To Temperature*, 06-096 CMR 582 limits thermal discharges to an in-stream temperature increase ( $\Delta T$ ) of 0.5°F above the ambient receiving water temperature when the weekly average temperature of the receiving water is greater than or equal to 66°F or when the daily maximum temperature is greater than or equal to 73°F. The temperature thresholds are based on USEPA water quality criteria for the protection of brook trout and Atlantic salmon. The weekly average temperature of 66°F was derived to protect for normal growth of the brook trout and the daily maximum threshold temperature of 73°F protects for the survival of juveniles and adult Atlantic salmon during the summer months. The Department interprets the term "weekly average temperature" to mean a seven (7) day rolling average. To promote consistency, the Department also interprets the  $\Delta T$  of 0.5°F as a weekly rolling average (chronic) criterion when the receiving water temperature is  $\geq 66^\circ\text{F}$  and  $< 73^\circ\text{F}$  and interprets the  $\Delta T$  of 0.5°F as a daily maximum (acute) criterion when the receiving water temperature is  $\geq 73^\circ\text{F}$ .

Chronic:

The chronic thermal assimilative capacity (AC) of the Penobscot River (the thermal load that would cause the river's weekly rolling average water temperature to increase by 0.5°F) at a 7Q10 river flow of 2,996 cfs can be calculated as follows:

$$\text{Chronic Thermal AC} = (2,996 \text{ cfs})(0.6464)(0.5^\circ\text{F})(8.34 \text{ lbs./gal})(10^6) = 8.1 \times 10^9 \text{ BTU/day}$$

Based on the data cited above, the Department established a best professional judgment daily maximum temperature limit of 85°F in the previous permitting action. When the receiving water is  $\geq 66^\circ\text{F}$  and  $< 73^\circ\text{F}$ , the in-stream temperature difference of 0.5°F is a weekly rolling average limit; thus, the maximum potential thermal heat load based on a daily maximum discharge flow of 0.151 MGD (0.150 MGD from internal outfall 001 + 0.001 MGD from internal outfall 002) at 85°F can be calculated as follows:

Maximum Potential Weekly Rolling Average Thermal Load:

$$(0.151 \text{ MGD})(85^\circ\text{F} - 66^\circ\text{F})(8.34 \text{ lbs./gal})(10^6) = 2.4 \times 10^7 \text{ BTU/day}$$

Acute:

The acute thermal assimilative capacity (AC) of the Penobscot River (the thermal load that would cause the river's daily maximum water temperature to increase by 0.5°F) at a 1Q10 river flow of 2,697 cfs can be calculated as follows:

$$\text{Acute Thermal AC} = (2,697 \text{ cfs})(0.6464)(0.5^\circ\text{F})(8.34 \text{ lbs./gal})(10^6) = 7.3 \times 10^9 \text{ BTU/day}$$

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

Based on the data cited above, the Department established a best professional judgment daily maximum temperature limit of 85°F in the previous permitting action. When the receiving water is  $\geq 73^\circ\text{F}$ , the in-stream temperature difference of 0.5°F is a daily maximum limit; thus, the maximum potential thermal heat load based on a daily maximum discharge flow of 0.151 MGD at 85°F can be calculated as follows:

Maximum Potential Daily Maximum Thermal Load:  

$$=(0.151 \text{ MGD})(85^\circ\text{F} - 73^\circ\text{F})(8.34 \text{ lbs./gal})(10^6) = 1.5 \times 10^7 \text{ BTU/day}$$

The calculated thermal heat load using the maximum discharge flow rate and temperature are lower than the assimilative capacity of the river. Therefore, compliance with the daily maximum effluent temperature limitation of 85°F, which is being carried forward in this permitting action, ensures that the discharge will not cause an in-stream temperature increase ( $\Delta T$ ) of 0.5°F above the ambient receiving water temperature. The calculation above are examples of thermal loading based on worst case scenarios for both the ambient receiving water and discharge from Outfall #001. It is noted the Department determines compliance based on actual ambient receiving water flows and temperatures and actual discharge flows and temperatures.

- e. Free Available Chlorine: The previous permitting action established, and this permitting action is carrying forward a monthly average and daily maximum technology based chlorine limitations of 0.2 mg/L and 0.5 mg/L. The previous permitting action established limits based on best practicable treatment (BPT) limitation found in 40 CFR 423.12(b)(7).

**Free Available Chlorine (DMRs=56)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	0.2	0.0 – 0.1	0.004
Daily Maximum	0.5	0.0 – 0.1	0.004

- f. pH: The previous permitting action established, and this permitting action is carrying forward a technology based pH range limitation of 6.0 – 9.0 standard units (SUs) based on 40 CFR 423.12(b)(1).

The Department reviewed 56 Discharge Monitoring Reports (DMRs) that were submitted for the period of November 30, 2010 – August 31, 2015 indicates that the permittee has been in compliance with the pH range limitation 100% of the time. A review of data indicates the following:

**pH (DMRs=56)**

Value	Limit (SU)	Range (SU)
Daily Maximum	6.0 – 9.0	6.8 – 7.5

- g. Total Suspended Solids (TSS): The previous permitting action established, and this permitting action is carrying forward, a monthly average and daily maximum technology based concentration limitations of 30 mg/L and 100 mg/L for TSS. The limits are consistent with the BPT limits for TSS established in federal regulation 40 CFR 423.12(b)(3).

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

The Department reviewed 56 Discharge Monitoring Reports (DMRs) that were submitted for the period of November 30, 2010 – August 31, 2015. A review of data indicates the following:

**TSS (DMRs=56)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly average	30	1.6 – 4.0	2.5
Daily Maximum	100	2.5 – 5.8	2.7

- h. Oil and Grease: The previous permitting action established, and this permitting action is carrying forward, a daily maximum technology based concentration limitation of 15 mg/L. It is noted that this BPJ limitation is more stringent than the daily maximum technology based limit of 20 mg/L established in 40 CFR 423.12(b)(3).

The Department reviewed 56 Discharge Monitoring Reports (DMRs) that were submitted for the period of November 30, 2010 – August 31, 2015. A review of data indicates the permittee has been in compliance with the daily maximum oil & grease limitation 100% of the time as values are as follows:

**Oil & grease (DMRs=56)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	15	4.2 – 6.5	5.0

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

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

**8. PUBLIC COMMENTS**

Public notice of this application was made in the *Bangor Daily News* newspaper on or about August 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 must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## **9. DEPARTMENT CONTACTS**

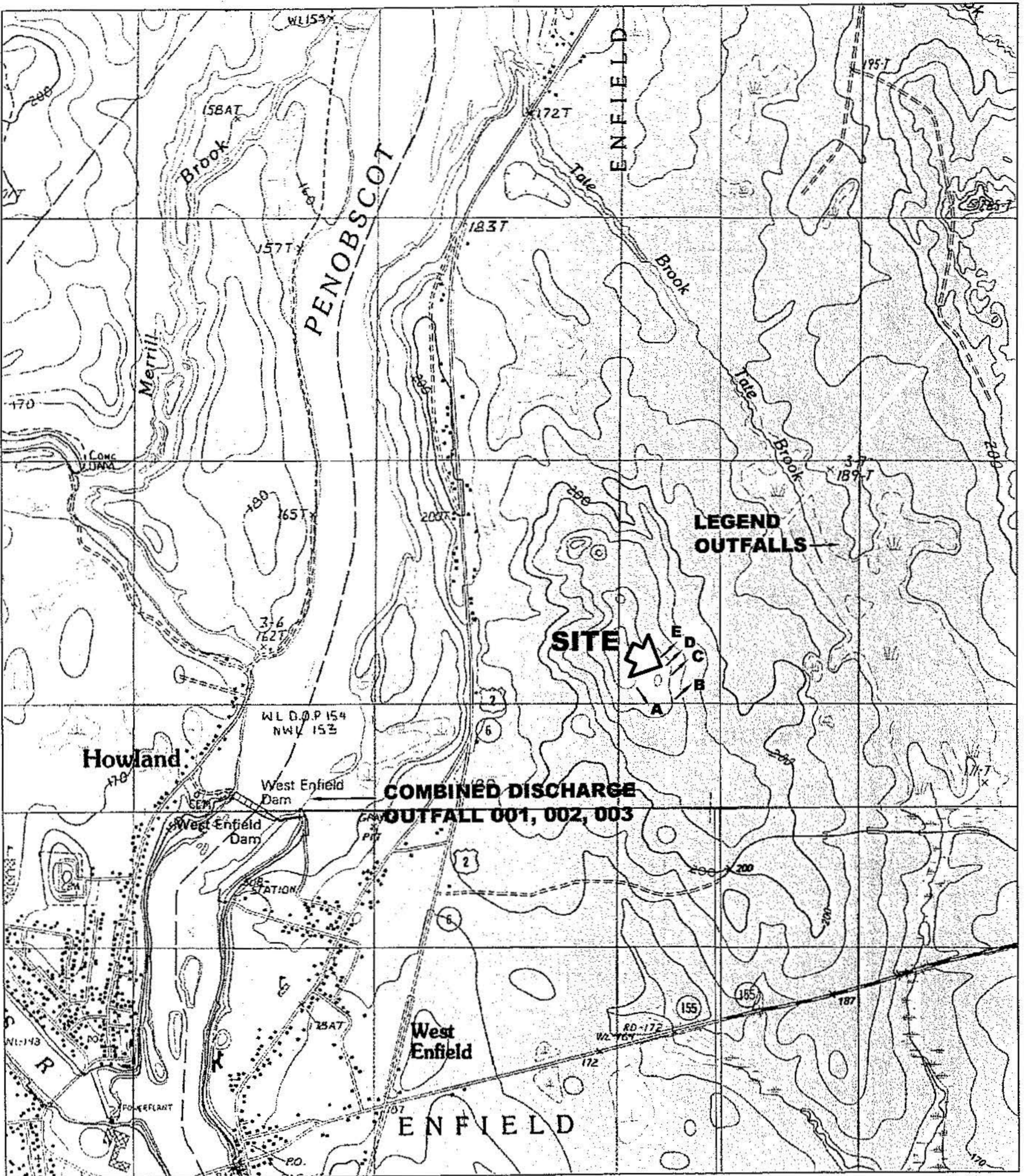
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Aaron Dumont  
Division of Water Quality Management  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 512-7161  
e-mail: [Aaron.A.Dumont@maine.gov](mailto:Aaron.A.Dumont@maine.gov)

## **10. RESPONSE TO COMMENTS**

*Reserved until end of the comment period.*

# **ATTACHMENT A**



SOURCE:  
 U.S.G.S. TOPOGRAPHIC QUADRANGLE  
 HOWLAND  
 @ 1:24,000



**CES INC**

**COVANTA MAINE, LLC  
 WEST ENFIELD, MAINE  
 LOCATION MAP**

4/5/10  
 4100.10





# 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.**

---