



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

DEPARTMENT ORDER

IN THE MATTER OF

CITY OF SOUTH PORTLAND)	MAINE POLLUTANT DISCHARGE
PORTLAND WATER DISTRICT)	ELIMINATION SYSTEM PERMIT
TOWN OF CAPE ELIZABETH)	
DANFORTH COVE, CUMBERLAND)	AND
COUNTY, MAINE)	
COMBINED SEWER OVERFLOW)	
ME0102806)	WASTE DISCHARGE LICENSE
W009027-5T-D-R	APPROVAL	RENEWAL

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S. §§ 464 – 470, *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251-1387, and applicable rules of the Department of Environmental Protection (Department), the Department has considered the application of the CITY OF SOUTH PORTLAND, PORTLAND WATER DISTRICT and the TOWN OF CAPE ELIZABETH, (permittees hereinafter) with its supportive data, agency review comments and other related materials on file, and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The permittees have submitted a complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102806/Maine Waste Discharge License (WDL) W009027-5T-C-R (permit) last issued by the Department on December 11, 2018, for a five-year term. The permit authorized the discharge of an unspecified quantity of untreated combined storm water and sanitary wastewater from the Ottawa Road pump station to the Atlantic Ocean (Danforth Cove), Class SB, in Cape Elizabeth, Maine.

PERMIT SUMMARY

This permit requires the permittee to monitor the flow and number of overflow events at the remaining CSO structure, periodically update the District's CSO Master Plan and annually report progress to eliminate the CSO.

CONCLUSIONS

BASED on the findings in the attached **PROPOSED DRAFT** Fact Sheet dated January 7, 2026, and subject to the special and standard 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. Section 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected.
 - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected.
 - (c) Where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification.
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. Pursuant to *Combined Sewer Overflow Abatement*, 06-096 C.M.R. Chapter 570 § 4, the discharge will be subject to the application of best practicable treatment.

ACTION

Based on the findings and conclusions stated above, the Department APPROVES the application from the CITY OF SOUTH PORTLAND, PORTLAND WATER DISTRICT and the TOWN OF CAPE ELIZABETH, to discharge an unspecified quantity of combined untreated sanitary wastewater and storm water during wet weather events to the Atlantic Ocean (Danforth Cove), Class SB, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,”* revised November 2018, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [Maine Administrative Procedure Act, 5 M.R.S. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR Ch. 2(20)(A) (effective September 15, 2024)]

DONE AND DATED AT AUGUSTA, MAINE, THIS _____ DAY OF _____ 2026.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: _____
For Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application May 7, 2024.

Date of application acceptance May 27, 2024.

This Order prepared by Rod Robert, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS**A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO)**

1. Definitions

For the purposes of this permit, the following terms are defined as follows:

- a. Combined Sewer Overflow - a discharge of excess wastewater from a municipal or quasi-municipal sewerage system that conveys both sanitary wastes and storm water in a single pipe system and that is in direct response to a storm event or snowmelt.
 - b. Dry Weather Flows - flow in a sewerage system that occurs due to non-storm events or are caused solely by ground water infiltration.
 - c. Wet Weather Flows - flow in a sewerage system that occurs as a direct result of a storm event, or snowmelt in combination with dry weather flows.
2. Pursuant to Chapter 570 of Department Rules (*Combined Sewer Overflow Abatement*), the permittees are authorized to discharge from the following CSO's (stormwater and sanitary wastewater) subject to the conditions and requirements herein.

<u>Outfall #</u>	<u>Location</u>	<u>Receiving Water & Class</u>
001A	Ottawa Road Pump Station	Atlantic Ocean (Danforth Cove) Class SB

3. Prohibited Discharges

- a) The discharge of dry weather flows is prohibited. All such discharges must be reported to the Department in accordance with Standard Condition D(1)(f), *Twenty-four-hour reporting*, of this permit.
- b) No discharge must occur because of mechanical failure, improper design or inadequate operation or maintenance.
- c) No discharges must occur at flow rates below the maximum design capacity of the wastewater treatment facility, pumping stations or sewerage system.

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO) (cont'd)

4. Narrative Effluent Limitations

- a) The effluent must not contain a visible oil sheen, settled substances, foam, or floating solids at any time that impair the characteristics and designated uses ascribed to the classification of the receiving waters.
- b) The effluent must not contain materials in concentrations or combinations that are hazardous or toxic to aquatic life; or which would impair the use designated by the classification of the receiving waters.
- c) The discharge must not impart visible discoloration, taste, toxicity, radioactivity or turbidity in the receiving waters which would impair the uses designated by the classification of the receiving waters.

5. CSO Long Term Control Plan (see Sections 2 & 3 of Chapter 570 Department Rules)

The permittee must implement CSO control projects in accordance with the approved CSO Master Plan and abatement schedule. The CSO Master Plan entitled *Ottawa Road Combined Sewer Overflow Master Plan for the City of South Portland, Portland Water District and Town of Cape Elizabeth* dated December 2013 and prepared by Wright-Pierce was approved on July 9, 2013.

- a. **On or before 12/31/2030 /ICIS Code 81699/** the permittee must submit for review and approval an updated CSO Master Plan with abatement schedule to eliminate, if financially feasible, or further reduce discharges from the Ottawa Road CSO discharge location.

To modify the dates and or projects specified above (but not dates in the Master Plan), the permittee must file an application with the Department to formally modify this permit. The work items identified in the abatement schedule may be amended from time to time based upon approval by the Department. The permittee must notify the Department in writing prior to any proposed changes to the implementation schedule.

6. Nine Minimum Controls (NMC) () (see 06-096 C.M.R. Ch. 570 § 5).

The permittees must implement and follow the Nine Minimum Control documentation. Work performed on the Nine Minimum Controls during the year must be included in the annual CSO Progress Report (see below).

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO) (cont'd)

7. CSO Compliance Monitoring Program (see Section 6, Chapter 570 of Department Rules)

The permittees must conduct flow monitoring of Outfall 001A according to a department approved *Compliance Monitoring Program*, as part of the CSO Master Plan. Overflow volumes must be measured.

Results of the monitoring program must be submitted annually as part of the annual CSO Progress Report (see section A (7) below) and must include annual precipitation and dates of CSO events. Any abnormalities during CSO monitoring must also be reported. The results must be reported on the Department form “*CSO Activity and Volumes*” (**Attachment A** of this permit) or similar format and submitted to the Department electronically.

CSO control projects that have been completed must be monitored for volume and frequency of overflow to determine the effectiveness of the project toward CSO abatement. This requirement must not apply to those areas where complete separation has been completed and CSO outfalls have been eliminated.

8. Annual CSO Progress Reports (06-096 C.M.R. Ch. 570 § 7).

By March 1 of each year, the permittees must submit *CSO Progress Reports* [*ICIS CS010*] covering the previous calendar year (January 1 to December 31). The CSO Progress Report must include, but is not necessarily limited to:

- A. CSO abatement projects. CSO abatement projects include milestone dates such as design start and completion and construction start and completion.
- B. Schedule comparison. A comparison of the existing schedule with the Department-approved implementation schedule. If the existing schedule is behind the approved schedule, list the reasons why, and how the licensee proposes to catch up in order to comply with the approved schedule.
- C. Progress on inflow sources. Progress made on locating and removing private inflow sources, such as roof leaders and basement sump pumps.
- D. Costs. Total cost and local share of CSO abatement projects to date, plus an anticipated budget for projects in the next year.
- E. Flow monitoring results. Results of any specific flow monitoring to determine effectiveness of previous CSO abatement projects. Compare actual CSO abatement with projections made during the CSO Master Plan.

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO) (cont'd)

8. Annual CSO Progress Reports (06-096 C.M.R. Ch. 570 § 7). (cont'd)
 - F. CSO activity and volumes. Yearly precipitation, CSO volumes (actual or estimated), and any block test data (see Section 6) submitted on department form titled "CSO Activity and Volumes". The form must be in electronic form, if possible, to allow easy data entry. Report any abnormalities during CSO monitoring.
 - G. Nine minimum controls update. Work done on the Nine Minimum Controls during the year including, but not limited to the following:
 - (1) Results of operation and maintenance programs for the sewer system and combined sewer overflows during the year, such as, frequency of regulator inspections, number of catch basins cleaned, and feet of sewer cleaned or repaired, with estimates of material removed, if possible.
 - (2) Low-cost projects to maximize use of the collection system for storage or to maximize flow to the POTW for treatment.
 - (3) Modifications to the pretreatment program to assure the CSO impacts are minimized.
 - (4) Low-cost projects that maximize flow to the POTW for treatment.
 - (5) Documentation that no CSO discharges occurred during dry weather.
 - (6) Projects to control solid and floatable materials in CSO discharges.
 - (7) Pollution prevention programs that focus on contaminant reduction activities.
 - (8) Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts.
 - (9) Any monitoring and sampling results to effectively characterize CSO impacts and the effectiveness of CSO controls.
 - H. Sewer extensions and new commercial or industrial flows. List the sewer extensions and new commercial or industrial flows added during the year, along with what mitigating measures were accomplished to prevent these flows from contributing to CSOs (see Section 8).

The CSO Progress Reports must be completed on a standard form entitled "*Annual CSO Progress Report*", furnished by the Department, and submitted in electronic form to the following address:

CSO Coordinator
Department of Environmental Protection
Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333
e-mail: CSOCOordinator@maine.gov

SPECIAL CONDITIONS

A. CONDITIONS FOR COMBINED SEWER OVERFLOW (CSO) (cont'd)

- 9.. Signs - The permittees must maintain identification signs at the CSO locations as notification to the public that intermittent discharges of untreated sanitary wastewater occur. The sign must be located at or near the outfall and be easily readable by the public. The sign must be a minimum of 12" x 18" in size with white lettering against a green background and must use one of the two acceptable formats shown below.":

**TOWN OF CAPE ELIZABETH
PORTLAND WATER DISTRICT
CITY OF SOUTH PORTLAND
WET WEATHER
SEWAGE DISCHARGE
OUTFALL #001, OTTAWA ROAD PUMP STATION
OR**

**COMBINED SEWAGE OUTFALL
CONTAINS SEWAGE DURING AND AFTER
PERIODS OF HEAVY RAINFALL.**

**CSO Permittee Name
CSO # and Name
CSO Permittee Tel. #**

B. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with the terms and conditions of this permit and only from outfalls cited in Special Condition A (1) of this permit. Discharges of wastewater from any other point source are not authorized under this permit and must be reported in accordance with Standard Condition D(1)(f), (*Twenty-four-hour reporting*) of this permit.

C. REOPENING OF PERMIT FOR MODIFICATION

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in the Special Conditions of this permit, 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.

D. SEVERABILITY

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

ATTACHMENT A
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
CSO ACTIVITY AND VOLUMES

Note 1: Flow data should be listed as gallons per day. Storms lasting more than one day should show total flow for each day.

Note 2: Block activity should be shown as a "1" if the block floated away.

Doc Num: DEPI W0462

Csoflows.xls (rev. 12/12/01)

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

FACT SHEET

Date: January 7, 2026

PERMIT NUMBER: **ME0102806**
LICENSE NUMBER: **W009027-5T-D-R**

NAMES AND ADDRESSES OF APPLICANTS:

PORLTAND WATER DISTRICT
225 Douglas Street, P.O. Box 3553
Portland, ME 04104

SOUTH PORTLAND WATER RESOURCE PROTECTION
P. O. Box 9422
South Portland, Maine 04116-9422

TOWN OF CAPE ELIZABETH
P.O. Box 6260, Ocean House Road
Cape Elizabeth, ME. 04107

COUNTY: **Cumberland County**

**NAME AND LOCATION WHERE DISCHARGE OCCURS and
RECEIVING WATER/CLASSIFICATION:**

<u>Outfall #</u>	<u>Location</u>	<u>Receiving Water & Class</u>
001A	Ottawa Road Pump Station	Danforth Cove, Atlantic Ocean Class SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

Mr. Scott Firmin
Portland Water District
Plant/Systems Mgr.
(207) 774-5961 Ext. 3077
sfirmin@pwd.org

1. APPLICATION SUMMARY

- a. **Application** - The permittees have submitted a complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102806/Maine Waste Discharge License (WDL) #W009027-5T-C-R (permit) last issued by the Department on December 11, 2018, for a five-year term. The permit authorized the discharge of an unspecified quantity of untreated combined storm water and sanitary wastewater from the Ottawa Road pump station to the Atlantic Ocean (Danforth Cove), Class SB, in Cape Elizabeth, Maine.
- b. **Source/Treatment:** The Ottawa Road pump station is owned, operated, and maintained by the Portland Water District. The pump station conveys sanitary wastewater and storm water generated by residential entities in the Town of Cape Elizabeth and City of South Portland as well as commercial entities in Cape Elizabeth to the wastewater treatment facility for the City of South Portland. During certain wet weather events, the sewer system cannot convey all the flow in the collection system to the South Portland wastewater treatment facility without discharging combined sanitary wastewater and storm water to the Danforth Cove via the pump station. As a result, the Department has taken the position that all three entities are responsible for eliminating the discharge in accordance with an approved Master Plan required by the permitting action. See **Attachment A** of this Fact Sheet for a location map.

2. PERMIT SUMMARY

- a. **Terms and Conditions** - This permit requires the permittee to monitor the flow and number of overflow events at the remaining CSO structure, periodically update the District's CSO Master Plan and annually report progress to eliminate the CSO.

3. CONDITIONS OF PERMITS

Conditions of licenses, 38 M.R.S. § 414 A(D), 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, toxics are regulated under 38 M.R.S. § 420, 06-096 C.M.R. Ch. 530 which requires the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, and 06-096 C.M.R. Ch. 584 (last amended February 16, 2020), all of which ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of estuarine and marine waters, 38 M.R.S. § 469(8) classifies Danforth Cove as a Class SB waterbody. Standards for classification of estuarine and marine waters, 38 M.R.S. § 465-B (2) describes the standards for classification of Class SB water.

2. Class SB waters. Class SB waters shall be the 2nd highest classification.

Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.

Class SB waters must be of sufficient quality to support all estuarine and marine species indigenous to those waters without detrimental changes in the resident biological community. The dissolved oxygen content of Class SB waters may not be less than 85% of saturation. Between April 15th and October 31st, the number of enterococcus bacteria in these waters may not exceed a geometric mean of 8 CFU or MPN per 100 milliliters in any 90-day interval or 54 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval. The number of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration as set forth in its publication "Guide for the Control of Molluscan Shellfish" (2019 revision) or any successor publication.

Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.

5. RECEIVING WATER QUALITY CONDITIONS

A report entitled, *2018/2020/2022 Integrated Water Quality Monitoring and Assessment Report* prepared by the Department pursuant to Sections 305(b) and 303(d) of the Federal Water Pollution Control Act, lists the Atlantic Ocean off the Town of Cape Elizabeth as Assessment Unit ID ME010600010605_SB1_E in a table entitled, *Category 4-A: Estuarine and Marine Waters with Impaired Shellfish Harvesting Designated Use –TMDL Completed (Bacteria from Combined Sewer Overflows)* The impairment is cause is listed as fecal coliform.

The Maine Department of Marine Resources (MEDMR) closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions and current shoreline surveys. In addition, the MEDMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system.

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

6. EFFLUENT LIMITATIONS/MONITORING REQUIREMENTS

This permitting action does not establish numeric effluent limitations for the discharges from the District's CSO. However, in April 1994, the EPA adopted a National Combined Sewer Overflow Control Policy that strives to 1) Accurately characterize collection systems through sampling, monitoring, and modeling; 2) Implement best management practices as described in its Nine Minimum Controls Strategy; and 3) Develop and implement a long-term control plan.

7. ANTI-BACKSLIDING

Federal regulation 40 CFR, §122.44 (l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that effluent limitations, standards, or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit, except for provisions specified in the regulation.

Applicable exceptions include (1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation and (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance, or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance. All limitations in this permit are equally or more stringent than the previous permit.

8. ANTI-DEGRADATION

The Department has made a best professional judgment determination based on information gathered to date, that as permitted, the discharge will not cause or contribute to the failure of Danforth Cove to meet the standards for Class SB classification and the designated uses of both waterbodies will continue to be maintained and protected.

9. PUBLIC COMMENTS

Public notice of this application was made in the Portland Press Herald newspaper on or about August 11, 2021. 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 C.M.R. Ch. 522 (effective January 12, 2001).

10. DEPARTMENT CONTACTS

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

Rod Robert
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333
E-mail: rodney.robert@maine.gov Telephone (207) 680-0576

11. RESPONSE TO COMMENTS

Reserved until the end of the formal thirty-day comment period