STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
COMMISSIONER

January 29, 2026

Mr. Greg Lambert
Cooke Aquaculture
Bingham, Maine
04920

Sent via electronic mail Delivery confirmation requested

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0110159 Maine Waste Discharge License (WDL) Application #W0075770-6F-K-R Extended **Proposed Draft** MEPDES Permit Renewal.

Dear Mr. Greg Lambert:

Enclosed is a copy of your extended **proposed draft** MEPDES/WDL Renewal which is being made available for review and comment prior to the formal public comment. By transmittal of this letter, you are provided with an opportunity to comment on the extended 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.

The comment period begins today, January 29, 2026, and ends February 9, 2026. All comments on the proposed draft permit must be received in the Department of Environmental Protection office on or before the close of business on February 9, 2026. Failure to submit comments in a timely fashion will result in the proposed draft/license permit document being issued as drafted.

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

If you have any questions regarding the matter, please feel free to call me at (207) 248-2032 or email me at grace.vierling@maine.gov

Sincerely,
Grace Vierling
Division of Water Quality Management
Bureau of Water Quality

cc: John Adamo, DEP
Gary Brooks, DEP
Laura Crossley, DEP
Lori Mitchell, DEP
Greg Wood, DEP
Wendy Garland, DEP
Michael Cobb, USEPA
Katheryn Rosenberg, USEPA
Richard Carvalho, USEPA
Crystal Canney, Protect Maine's Fishing Heritage
DMR Environmental Review
IFW Environmental Review

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

COOKE AQUACULTURE USA INC.	)	MAINE POLLUTANT DISCHARGE
BINGHAM FISH HATCHERY	)	ELIMINATION SYSTEM PERMIT
BINGHAM, SOMERSET COUNTY, MAINE	)	AND
ME0110159	)	WASTE DISCHARGE LICENSE
#W007577-6F-K-R **APPROVAL**	)	**RENEWAL**

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-C, *Water Classification Program*, 38 M.R.S. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251 *et seq,* and applicable rules of the Department of Environmental Protection ("Department"), the Department has considered the application of the COOKE AQUACULTURE USA, INC. ("Cooke"/"permittee") with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On February 19, 2020, the Department accepted as complete for processing an application from COOKE AQUACULTURE USA, INC. for renewal of combination Waste Discharge License (WDL) W007577-6F-J-R / Maine Pollutant Discharge Elimination System (MEPDES) ME0110159 permit, which was issued by the Department on September 1, 2015, for a five-year term. The September 1, 2015, permit authorized the monthly average discharge of 5.7 million gallons per day (MGD) of non-contact cooling water, which is only required on a seasonal basis (summer-fall), and 11.25 MGD of treated fish hatchery wastewater to the Kennebec River, Class A, in Bingham, Maine.

PERMIT SUMMARY

a. Terms and conditions

This permitting action is carrying forward all the terms and conditions from the previous permitting action and subsequent minor revisions and modifications and it is;

a. Establishes 1/Month ambient and effluent monitoring requirements for total phosphorus for the first two years of the permit;
b. Updates Special Condition A, *Effluent Limitations and Monitoring Requirements*, Footnote 1, *Sampling*, to use sufficiently sensitive methods;
c. Updates Special Condition E, Monitoring and Reporting, to the Department's most current requirements;
d. Amends Special Condition F, *Operations and Maintenance Plan*, to include a requirement for documentation of all drug/pesticide/other compound use as well as include a section specifically applicable to wastewater operations, and;

PERMIT SUMMARY (Cont'd)

a. Terms and conditions (Cont'd)

e. Modifies Special Condition G, *Use of Drugs for Disease Control*, to be consistent with Department updates to MEPDES permit language for land-based fish hatcheries, regarding application of preventative treatments.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 29, 2026, 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. § 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 waterbody are not met, the discharge will not cause or contribute to the failure of the waterbody to meet the standards of classification;

   (d) Where the actual quality of any classified receiving waterbody exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and

   (e) Where a discharge will result in lowering the existing water quality of any waterbody, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D).

5. The applicant has objectively demonstrated to the Department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available, as required by *Standards for classification of fresh surface waters*, 38 M.R.S. § 465(2)(C) for the discharge to Class A waters.

ACTION

THEREFORE, the Department APPROVES the above noted application of COOKE AQUACULTURE USA, INC. to discharge a monthly average of 11.25 MGD of treated fish hatchery wastewater via Outfall #00lA, and the daily maximum discharge of 5.7 MGD of non-contact cooling water (administrative Outfall #002A) to the Kennebec River, Class A, in Bingham, 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 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 terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until the final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act and Other Administrative Matters*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters,* 06-096 C.M.R. Ch. 2 § 20(A) (effective September 15, 2024)]

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEALS PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS ____ DAY OF _____, 2025

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____

For: MELANIE LOYZIM, Commissioner

Date of initial receipt of application: February 18, 2020

Date of application acceptance: February 19, 2020

This order prepared by Grace Vierling, Bureau of Water Quality

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge fish hatchery wastewater from Outfall #001A to the Kennebec River in Bingham, Maine. Such discharges are limited and must be monitored by the permittee as specified below [(1)]:

Effluent Characteristic	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Daily Minimum	Measurement Frequency	Sample Type
Flow *[50050]*	11.25 MGD *[03]*	---	---	---	---	Daily *[01/01]*	Estimated *[ES]*
TSS *[00530]*	396 lbs/day *[26]*	Report lbs/day *[26]*	6 mg/L *[19]*	10 mg/L *[19]*	---	2/Month(3) *[02/30]*	Composite(2) *[CP]*
Fish on Hand *[45604]*	---	Report lbs/day *[26]*	---	---	---	1/Week *[01/07]*	Calculate *[CA]*
Formalin(4) *[51064]*	Report lbs/day *[26]*	228 lbs/day *[26]*	---	---	---	1/Occurrence *[01/OC]*	Calculate *[CA]*
Total Phosphorus(5) *From June 1 to Sept. 30 annually* *[00665]*	---	---	Report mg/L *[19]*	---	---	1/Month *[01/30]*	Grab *[GR]*

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports. **FOOTNOTES: See Page 6 of this permit for applicable footnotes.**

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. The permittee must perform ambient receiving water monitoring for Cooke Aquaculture in Bingham, Maine. Ambient sampling must be performed in a location agreed upon by the Department and permittee. The permittee must notify the Department if there is a change in location. Such sampling must be monitored by the permittee as specified below[(1)]:

Effluent Characteristic	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Total Phosphorus[(5)] *From June 1 to Sept. 30 annually* *[00665]*	---	---	Report mg/L *[19]*	---	1/Month *[01/30]*	Grab *[GR]*

SPECIAL CONDITIONS

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

FOOTNOTES:

1. **Sampling –** Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40, Code of Federal Regulations (40 CFR) Part 136; b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136; or c) as otherwise specified by the Department. Estimation of flows must be determined by a method approved 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 pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Accreditation Rules*, 10-144 C.M.R. ch. 263 (amended March 15, 2023). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10 − 144 C.M.R. ch. 263.

   If the permittee monitors any pollutants more frequently than required by the permit using test procedures approved under 40 C.F.R. 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).

   In accordance with 40 C.F.R. § 122.44(i)(1)(iv), the permittee must monitor according to sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O, for the analysis of pollutants or pollutant parameters (except WET). A method is "sufficiently sensitive" when: 1) The method minimum level (ML) is at or below the level of the effluent limitation established in the permit for the measured pollutant or pollutant parameter; or 2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O for the measured pollutant or pollutant parameter. The term "minimum level" refers either to the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL), whichever is higher. Minimum levels may be obtained in the following ways: they may be published in a method; they may be based on the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a laboratory, by a factor.

2. **Composite Samples** - Samples must consist of 24-hour composites collected with an automatic composite sampler. Alternatively, when weather conditions and/or equipment prevent automatic compositing and upon Department approval, the permittee may manually composite a minimum of eight grab samples collected at one-hour intervals during the working day at the facility. The permittee must indicate the type of sample collected on the DMR.

SPECIAL CONDITIONS

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

FOOTNOTES:

3. **2/Month** - Monitoring required at a *minimum* frequency of 2/month must be collected no less than 14 days between sampling events unless specifically authorized by the Department's compliance inspector. Additional sampling may be conducted at shorter intervals, however, 2 of the samples must be collected at least 14 days apart per month.

4. **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 day (lbs./day):

   Formalin applied (gallons) x 9.03[1] (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 treatment:

   i. One hour per day treatment typical of hatchery and rearing facility discharges; and

   ii. Maximum of up to 24 hours of treatment and discharge for addressing emergency conditions at the facility.

Formalin treatments greater 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 "N9" for this parameter on the monthly DMR.

5. **Total Phosphorus** - See Attachment A of this permit for Protocol for Total Phosphorus Sample Collection and Analysis for Wastewater and Receiving Water Monitoring Required by Permits.

   The permittee is required to report effluent and ambient monthly average concentration from June 1 to September 30 for the first two years of this permit. Ambient total phosphorus sampling must be taken at an agreed upon site between the permittee and Department.

SPECIAL CONDITIONS

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 usages 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 usages designated for the classification of the receiving waters.

3. The permittee must not discharge effluent that imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsuitable for the designated uses and characteristics ascribed to their classification.

4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification or 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 February 19, 2020; 2) the terms and conditions of this permit; and 3) only from Outfalls #001A (treated fish hatchery wastewater) and #002A (non-contact cooling water). Discharges of wastewater from any other point source(s) are not authorized under this permit and must be reported in accordance with Standard Condition D (1)(f), *Twenty-four-hour reporting of this permit.*

D. NOTIFICATION REQUIREMENTS

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 by a source introducing pollutants into the system after the time of permit issuance.

2. For the purposes of this section, adequate notice must 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. MONITORING AND REPORTING

Electronic Reporting

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

Electronic DMRs submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and

2. Submitted no later than **midnight on the 15th day of the month** following the completed reporting period.

Documentation submitted electronically to the Department in support of the electronic DMR may be attached to the electronic DMR and must be submitted no later than midnight on the 15th day of the month following the completed reporting period.

F. OPERATION & MAINTENANCE (O&M) PLAN

The permittee must have 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.

1. Solids Control

a. Methods and practices to ensure efficient feed management and feeding strategies that limit feed input to the minimum amount that is reasonably necessary to achieve production goals and sustain the targeted rates of aquatic animal growth to minimize potential discharges to waters of the State.

b. 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 systems.

c. Procedure for removal and disposal of mortalities to prevent discharge to waters of the State.

SPECIAL CONDITIONS

F. OPERATIONS AND MAINTENANCE (O&M) PLAN (Cont'd)

2. Materials Storage

a. Ensure proper storage of drugs [as referred to in 21 U.S.C §321] , pesticides [as referred to in 7 U.S.C. 136 (u)], 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

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 number and weight of fish.

b. Maintain records that document the frequency of cleaning, inspections, repairs and maintenance made to ensure the proper operation of the treatment system.

c. Maintain records that document drug/pesticide/other compound use as indicated under Special Condition G, *Use of Drugs for Disease Control*, and Special Condition H, *Use of Pesticides and Other Compounds*.

5. Training

a. To ensure the proper clean-up and disposal of spilled material adequately, train all relevant personnel in spill prevention and response.

b. Train staff on proper operation and cleaning of production and wastewater treatment systems including training in feeding procedures and proper use of equipment to prevent unauthorized discharges

6. Wastewater Operations

a. Provide a flow chart for the wastewater treatment process, the sludge and solids dewatering and removal process, and effluent discharge system.

SPECIAL CONDITIONS

F. OPERATIONS AND MAINTENANCE (O&M) PLAN (Cont'd)

b. Identify and develop operational and maintenance standard operating procedures for the treatment system components used to treat clean water, sludge water from cleaning mechanical filters, sludge water from backflushing biological treatment filters, and other wastewaters, as applicable:

   i. Belt/drum filters and thickeners;
   ii. Use of flocculants/coagulants;
   iii. Clarifiers/settling tanks;
   iv. Fish exclusion barriers;
   v. Centrifuges;
   vi. UV disinfection/sterilization;
   vii. Chemical storage and disposal;
   viii. Intake/outfall maintenance;
   ix. Other

c. Define each of the following wastewater treatment responsibilities:
   i. Operations Manager, qualifications and duties;
   ii. Staff duties;
   iii. Sample collection and analysis;
   iv. Regulatory reporting:
      1. Discharge monitoring reports
      2. Spill/release reports;
   v. Any other wastewater operations responsibilities not listed.

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 always kept on-site and made available to Department and EPA 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.

G. TOTAL PHOSPHORUS SAMPLING PLAN

The Department generally conducts sampling for the purpose of making decisions on the attainment of designated uses or maintenance of existing uses. In accordance with *Nutrient Criteria for Class AA, A, B, and C Fresh Surface Waters,* 06-096 C.M.R. Ch. 583(4)(E)(1), the Department may request or require a holder of a Waste Discharge License to conduct sampling of effluent and ambient conditions. This permitting action is establishing a requirement to monitor effluent and ambient total phosphorous. The permittee must develop and adhere to a phosphorous sampling plan to ensure data integrity.

SPECIAL CONDITIONS

G. TOTAL PHOSPHORUS SAMPLING PLAN (Cont'd)

The phosphorous sampling plan must be submitted to the Department for review and acceptance before collecting data. The plan must include but is not limited to:

1. Designation of responsibilities for the data preparation, collection, analysis (including lab and analytical method to be used), and reporting;
2. Sampling procedures including the location;
3. Any training needed for sample collection; and
4. Quality control procedures.

Sampling must be performed by qualified persons based on considerations such as relevant education, training, and experience.

H. USE OF DRUGS FOR DISEASE CONTROL

The permittee must comply with Maine Department of Inland Fisheries and Wildlife (MDIFW) (freshwater facilities) and Maine Department of Marine Resources (MEDMR) (salmon & marine facilities) fish health laws (12 M.R.S. § 6071; 12 M.R.S. § 100051, 10105, 12507, and 12509, or revised laws)/ The cited laws include requirements for notification to the appropriate agency within 24-hours of pathogen detection. In addition to the requirements of the MDIFW and MEDMR rules, **the permittee must notify the Department in writing within 24-hours following the pathogen detection**, with information on the disease/pathogen, necessary control measures, and the veterinarian involved.

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 be applied in compliance with federal labeling restrictions.

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.

SPECIAL CONDITIONS

H. USE OF DRUGS FOR DISEASE CONTROL (Cont'd)

b. FDA-approved drugs identified in the permittee's application: drugs, pesticides and other compounds proposed for use at the Bingham Fish Hatchery by COOKE AQUACULTURE USA INC during the term of the permit, which was provided by the permittee on Form DEPLW1999-18 included with its February 19, 2020, General Application for Waste Discharge Permit, is included as **Attachment A** of this permit.

3. 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 or Attachment A of the permit, the permittee must notify the Department orally or by electronic mail prior to initial use of the drug.

i. The notification must include a description, intended use, application method, amount, concentration, duration and aquatic toxicity of the drug.

ii. *Within seven (7) days* of the initial notification the permittee must submit a request that includes all of the information outlined in G(2)(c)(i), above.

iii. If the drug is to be used for more than 30 consecutive days, the Department may require the permittee to submit an application for permit modification, including public notice requirements.

iv. Upon review of the information regarding the use of a drug pursuant to this section, if the Department determines that significant adverse effects are likely to occur, it may restrict or limit the use of the drug.

4. Extralabel drug use. Extralabel drug use is not authorized by this permit, unless in accordance with a specific prescription written for use by a licensed veterinarian.

a. Notification. The permittee must notify the Department orally or by e-mail prior to the initial extralabel use of a drug.

i. 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.

ii. *Within seven (7) days of* the initial notification the permittee must submit a written report that includes all the information outlined in Section G(3)(a)(i), 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.

SPECIAL CONDITIONS

H. USE OF DRUGS FOR DISEASE CONTROL (Cont'd)

iii. Upon review of the information regarding the use of a drug pursuant to this section, if the Department determines that significant adverse effects are likely to occur, it may restrict or limit the use of the drug.

5. 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 being used, method, dosage, and disease or conditions 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 a study plan for review and approval of the Department that.

i. Indicates the date the facility agreed or signed up to participate in the INAD study.

ii. Demonstrates that the minimum amount of drug necessary to evaluate its safety, efficacy, and possible environmental impacts.

iii. 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 characterize 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.

d. There were no INADs identified in the permittee's application.

I. PESTICIDES AND OTHER COMPOUNDS

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

SPECIAL CONDITIONS

I. PESTICIDES AND OTHER COMPOUNDS (Cont'd)

with express approval in this permitting action. It is the Department's Best Professional Judgment (BPJ) that the incidental discharge of these chemicals will not cause or contribute to the non-attainment of applicable water quality standards. 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.

See **Attachment A** of this Permit of this permit for a table listing the possible pesticides and other compounds that may be used during the term of this permit.

J. SPILLS

In the event of a spill of drugs, pesticides, or feed, that results in a discharge to waters of the State, the permittee must provide an oral report of the spill to the Department within 24 hours of its occurrence and a written report within 5 days to the Department. The report must identify and quantify the amount of material spilled, and describe methods used to contain and remediate the spill.

K. PROTECTION OF ATLANTIC SALMON

The permittee is required to employ a fully functional Containment Management System (CMS) designed, constructed, operated, and audited so as to prevent accidental or consequential escape of fish from the facility.

Each CMS plan must include:

1. a site plan or schematic;

2. site plan description;

3. procedures for inventory control, predator control, escape response; unusual event management, and severe weather;

4. provisions for employee training, auditing methods, and record keeping requirements; and

5. The CMS must identify critical control points where escapes could potentially occur, specific control mechanisms for each of these points, and monitoring procedures to verify the effectiveness of controls.

The CMS site specific plan must also describe the use of effective containment barriers appropriate to the life history of the fish. The facility must have in place both a three-barrier system for fish up to 5 grams in size and a two-barrier system for fish 5 grams in size or larger.

SPECIAL CONDITIONS

K. PROTECTION OF ATLANTIC SALMON (Cont'd)

The three-barrier system must include one barrier at the incubation/rearing unit, one barrier at the effluent from the hatch house/fry rearing area and a third barrier placed in line with the entire effluent from the facility. The two-barrier system must include one barrier at the individual rearing unit drain and one barrier in line with the total effluent from the facility. Each barrier must be appropriate to the size of fish contained. Barriers installed in the system may be of the screen type or some other similarly effective device used to contain fish of a specific size in a designated area. Barriers installed in the system for compliance with these requirements must be monitored daily.

Facility personnel responsible for routine operation must be properly trained and qualified to implement the CMS. Prior to any containment system assessment associated with this permit, the permittee must provide the Department with documentation of the employee's or contractor's demonstrated capabilities to conduct such work ***[ICIS code 21599]***.

The permittee must submit the CMS plan to the Department for review and approval on or before six months following the effective date of this permit ***[ICIS code 53799]*** and must maintain a current copy of the plan at the facility.

The CMS must be audited at least once per year and within 30 days of a reportable escape (a reportable escape is more than 50 fish) by a third party qualified to conduct CMS audits and approved by the Department ***[ICIS code 63899]***. A written report of these audits must be provided to the facility and the Department for review and approval within 30 days of the audit being conducted ***[ICIS code 43699]***.

Any time that a CMS audit identifies deficiencies, the written report must contain a corrective action plan including a timetable for implementation and provisions for re-auditing, unless waived by the Department, to verify completion of all corrective actions.

Additional third party audits to verify correction of deficiencies must be conducted in accordance with the collective action plan or upon request of the Department. The facility must notify the Department upon completion of collective actions.

The permittee must maintain for a period of at least five (5) years complete records, logs, reports of internal and third-party audits and documents related to the CMS for each facility.

Escape reporting. The permittee must notify by electronic mail (e-mail) "the Escape Reporting Contact List" (provided in this subsection) of any known or suspected escape of more than 50 fish within 24 hours of becoming aware of the known or suspected loss.

The permittee must include in its e-mail notification the following information: 1) site location (town and waterbody); 2) date of event (or window of possible dates if exact date is unknown); 3) time of event (if known or specify "unknown"; 4) species (including strain); 5) estimated average weight; 6) age of escaped fish; 7) number of escaped fish (or if exact

SPECIAL CONDITIONS

K. PROTECTION OF ATLANTIC SALMON (Cont'd)

number is not possible, an estimate); 8) medication profile; 9) details of the escape; 10) corrective actions; 11) and a contact person (including phone number) for the facility where the known or suspected escape occurred.

Escape Reporting Contact List:

The agency contacts on this list may be revised by the state and/or federal agencies by provision of written notification to the permittee and the other agencies. Upon notice of any such change the permittee must notify all persons on the revised list in the same manner as provided in this protocol.

Army Corps of Engineers
Maine Project Office; Zach Normile; Zachary.Normile@usace.army.mil

Maine Department of Environmental Protection
Regional Compliance Inspector; John Adamo; John.Adamo@maine.gov
Regional Compliance Supervisor; Gary Brooks; Gary.R.Brooks@maine.gov

Maine Department of Marine Resources
Director, Bureau of Health; Kohl Kanwitt; Kohl.Kanwitt@maine.gov
Secretary to the Commissioner; Charlene Beringer; Charlene.L.beringer@maine.gov
Director, Bureau of Sea-Run Fisheries; Sean Ledwin; Sean.M.Ledwin@maine.gov

Maine Department of Inland Fisheries and Wildlife
Commissioner; Judy A. Camuso; Judy.Camuso@maine.gov

National Marine Fisheries Service and National Oceanic and Atmospheric Administration
Maine Field Station; David Bean; David.Bean@noaa.gov

United States Fish and Wildlife Service
Maine Field Office; Wende Mahaney; Wende_Mahaney@fws.gov

L. ALTERNATIVE DISCHARGE STUDY

On or before six-month prior to expiration of this permit, the permittee must submit to the Department for review, and Alternative Discharge Study (ADS) report to objectively demonstrate, to the Departments satisfaction, that the discharge is necessary and that there are no other reasonable alternatives available, as required by *Standards/classification of fresh surface waters,* 38 M.R.S. § 465(2).

M. REOPENING OF PERMIT FOR MODIFICATION

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the test results in the 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/District, modify this permit to: (1) include effluent limitations 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.

N. SEVERABILITY

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

ATTACHMENT A

Form DEPLW1999-18
Bingham Hatchery Renewal 2020

10. Disinfectants

Ovadine-used in the disinfection of salmonid eggs and equipment. 100ppm on eggs and up to 200ppm on equipment. This product is used on eggs in February/March and throughout the year on equipment. A total of approximately 15 gallons are used each year. The active ingredient is 10% polyvinlylpyrrolidinone iodine and 90% inert ingredients. Use is only on days of spawning between November and January each year, 2-3 times/week.

Virkon Aquatic- is used as a primary footbath disinfectant as well as equipment and tank disinfection. Virkon is used in concentrations up to 2% solution. Approximately 100 lbs of powder are used each year. Ingredients include potassium peroxymonosulfate, sodium chloride and other inert ingredients. Footbaths are changed 2-3 times/week depending on organics present in the baths. Equipment would be disinfected as needed, likely less than 1 piece of equipment/month.

Citrus Crystal- used for the cleaning and disinfection of tanks. Currently this product is not used at the facility, however it is used at other salmonid hatcheries and there is a potential to use this product moving forward. Active ingredients include Sodium metasilicate and sodium phosphate tribasic.

PowerQuat- is used as a vehicle disinfectant. Approximately 10 gallons/year are used at a dosage of 30ppm. It is used throughout the year on any incoming vehicle. Active ingredients include 1-decanaminium, N,N-dimethyl-N-octyl, chloride, 1-octanaminium, N,N-dimethyl-N-octyl, chloride, alkyl (C12-16) dimethylammonium chloride, didecyldimethylammonium chloride. This is the same product used in cafeterias and hospitals throughout the United States. Used only when vehicles enter the property, less than 1/week.

Ramsey Frequency 64- is used as a tank cleaner and disinfectant. Approximately 15 gallons per year are used at the facility at a dilution rate of 64 parts water to 1 part concentrate. Active ingredients include, N-alkyl, dimethyl benzyl ammonium chloride, didecyl dimethyl ammonium chloride, and ethyl alcohol. Used only when tanks are emptied, which is approx. every 3-4 months.

11. Therapeutics-only approved drugs under the guidance of a veterinarian and/or INAD are/would be used at Bingham Hatchery.

Parasite-S- used a fungicide on eggs and live fish. Concentrations up to 200ppm are used. Recently use of formalin products have been limited by

MEPDES permits and as such are used according to allowed quantities. Parasite-S is a 37.5% formaldehyde product used mostly on eggs in Feb/March but also during high stress handling events such as grading and vaccination to help keep gill and skin parasites to a minimum. A total of approximately 1250 gallons/year are used at Bingham. Used on eggs twice per week November-March. Use on fish is less than 1/ 3 months.

Perox-Aid is a 35% Hydrogen Peroxide product used in the control of fungus on eggs and bacterial gill disease on fish. A total of approximately 900 gallons/year are used at Bingham. Used on eggs twice/week November-March and on fish less than 1/ 3 months.

Aquaflor- an antibiotic used for the control of cold water disease or furunculosis would be used if needed. Frequency of use at Bingham is less than once per year and is always used according to prescribed amounts if needed at a rate usually of 10mg/kg/day for 10 consecutive days on effected tanks. The active ingredient in this product is Florfenicol. Not used in the past 10 years so less than 1 treatment/year.

Oxytetracycline-an antibiotic used for the control of enteric red mouth and furunculosis would be used as needed. The active ingredient is Oxytetracycline dihydrate and issued at a rate of 3.75g/100lb/day for 10 days. Like Aquaflor use of this product is less than once/year but when required it is fed as prescribed by the facility veterinarian. Not used in the past 10 years so less than 1 treatment/year.

Romet-30 or Romet TC- is an antibiotic used in the control of furunculosis, enteric red mouth and cold water disease. Like other anti-biotics, Romet is used only as needed and on average there is less than one treatment/year at Bingham. The inclusion rate is 50mg/kg/day for 5 days. Like all other antibiotics, this product would need veterinarian supervision to be utilized. Not used in the past 10-15 years so less than 1 treatment/year.

SLICE- is an in feed mixture used to combat sea lice in salt water. Slice has been used twice at Bingham, in 2006 and 2009. SLICE is utilized at the hatchery 7 days prior to shipment to saltwater at a feeding rate of .00005g/kg biomass for 7 consecutive days. The active ingredient in SLICE premix is Emamectin Benzoate. Not used in the past 15 years so less than 1 treatment/year.

Chloramine-T-is a chemical used in the control of bacterial gill disease in salmonids and as an equipment disinfectant. The active ingredients in CT are N-chloro-toluenesulfonamide and sodium salt tri hydrate. Approximately 5 pounds are used annually as an equipment disinfectant. Use is less than 10 times/year.

MS222- is a fish anesthetic used for the sedation of fish to allow close examination and events such as vaccination to occur. The active ingredient in MS-222 is ethyl m-amino benzoate and approximately 22 kg/year are used at the hatchery with the largest amount being used in November to sedate the fish during spawning and in March during vaccination. used any time fish need to be sedated for brood sorting or vaccination of production fish. each tank would be treated once/year during vaccination with brood receiving multiple treatments as not all brood in a tank spawn at the same time. Brood would be treated less than 10 times/year.

In addition to the items listed above, any newly approved product by the United States Food and Drug Administration would be considered for use upon approval.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
WASTE DISCHARGE LICENSE

FACT SHEET

Date: **January 29, 2026**

MEPDES PERMIT/MEPDES: **ME0110159**
WASTE DISCHARGE LICENSE: **W007577-6F-K-R**

NAME AND ADDRESS OF APPLICANT:

GREG LAMBERT
BINGHAM FISH HATCHERY
P.O. BOX 528, 36 RIVER STREET
BINGHAM, MAINE 04920

COUNTY:

SOMERSET

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

COOKE AQUACULTURE USA INC.
BINGHAM FISH HATCHERY
P.O. BOX 528, 36 RIVER STREET
BINGHAM, MAINE 04920

RECEIVING WATER / CLASSIFICATION:

KENNEBEC RIVER/CLASS A

COGNIZANT OFFICIAL CONTACT INFORMATION:

GREG LAMBERT
(207)446-6295
GREG.LAMBERT@COOKEAQUA.COM

1. APPLICATION SUMMARY

Application: On February 19, 2020, the Department accepted as complete for processing an application from COOKE AQUACULTURE USA, INC. ("Cooke"/"permittee") for renewal of combination Waste Discharge License (WDL) W007577-6F-J-R / Maine Pollutant Discharge Elimination System (MEPDES) ME0110159 permit, which was issued by the Department on September 1, 2015, for a five-year term. The September 1, 2015, permit authorized the monthly average discharge of 5.7 million gallons per day (MGD) of non-contact cooling water, which is only required on a seasonal basis (summer-fall), and 11.25 MGD of treated fish hatchery wastewater to the Kennebec River, Class A, in Bingham, Maine.

2. PERMIT SUMMARY

a. Terms and Conditions:

This permitting action is carrying forward all the terms and conditions from the previous permitting action and subsequent minor revisions and modifications and it is;

a. Establishes 1/Month ambient and effluent monitoring requirements for total phosphorus for the first two years of the permit;
b. Updates Special Condition A, *Effluent Limitations and Monitoring Requirements*, Footnote 1, *Sampling*, to use sufficiently sensitive methods;
c. Updates Special Condition E, Monitoring and Reporting, to the Department's most current requirements;
d. Amends Special Condition F, *Operations and Maintenance Plan*, to include a requirement for documentation of all drug/pesticide/other compound use as well as include a section specifically applicable to wastewater operations, and;
e. Modifies Special Condition G, *Use of Drugs for Disease Control*, to be consistent with Department updates to MEPDES permit language for land-based fish hatcheries, regarding application of preventative treatments.

b. Source Description: The Bingham Fish Hatchery is a Commercial Atlantic Salmon Hatchery and Rearing Facility. The facility is broken up into several buildings which are used for different rearing operations and life stages of the salmon cultured at the facility.

Influent Water: The facility obtains influent water for the facility from underground aquifers and uses up to four well pumps at any one time to pump an average of 6,000 gpm and a maximum of 7,600 gpm through the facility for the culture of Atlantic salmon. Water temperature of the wells is fairly constant between 6.8 and 11 degree Celsius, which is dependent on the location and season. The well water is heated or chilled depending on the different life stages and holding patterns of incubated eggs and fish. Since all the water is sourced from underground areas, it must be degassed to remove excess nitrogen and other gases naturally found in ground water.

A-Building, the main cinder-blocked building, houses hatchery offices, lunchroom, twelve operational 12-foot diameter fiberglass first feeding tanks, sixty-eight operational 5-foot fiberglass combi tanks where eggs are incubated and hatched, as well as multiple

2. PERMIT SUMMARY

b. Source Description:

egg incubation trays and cylinders used for egg incubation. There are other tanks in this building, but they are not currently in use.

B-Building contains twenty-eight 12-foot diameter fiberglass tanks. All the tanks in this unit are part of the hatchery recirculation system of which approximately 95% of the water is treated by filtration through a 60-micron drum filter, ultraviolet radiation, ozonation, and fluidized sand filters. Water in this rearing unit is heated via a propane-fired boiler to maximize the growth potential of fish in this unit. This unit is capable of housing various fish life stages, from fry through smolt stage.

C-Building has twenty-four 26-foot diameter concrete rearing tanks. These tanks are in a flow-through configuration and can contain various fish life stages from fry through 2nd year brood.

D&E Buildings are identical in layout. Both units are comprised of twelve 32-foot diameter concrete tanks and are flow-through in nature. These units are used to hold various stages of fish ranging from fry through brood stock. Six tanks in E building are enclosed via an aluminum-framed black tarp and are photoperiod manipulated to allow spawning to be drawn out over a longer length of time.

The layout of this facility can be seen in **Attachment B** of this permit.

During the summer and early fall, the permittee may withdrawal up to 5.7 MGD of Kennebec River to be conveyed through a heat exchanger to increase the temperature of the water used for fish rearing. The water does not come into contact with any pollutants and is discharged approximately 4-5 degrees Fahrenheit below the ambient river (intake) temperature. Outfall #002A is a 14-inch diameter PVC pipe that extends approximately one foot below the mean low water level of the Kennebec River.

c. Wastewater Treatment: Wastewater from all buildings is collected in concrete trenches and routed through three 60-micron drum filters with a capacity of 6,000 gpm each. In addition to these drum filters, B-Building houses a separate 60-micron drum filter used in the recirculation portion of the facility. Filtered effluent send to a 175-foot x 15-foot x 4-foot polishing pond prior to conveyance to the Kennebec River via 30-foot wide by 30-foot-long open channel/conveyance system. Drum filter backwash water is sent to a concrete holding pond. The sludge pond is drained a pumped periodically prior to the sludge being spread on agricultural fields.

In accordance with Special Condition D of the 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. Use of agents for therapeutic and disinfecting/sanitizing purposes are addressed in subsequent Fact Sheet sections titled accordingly.

2. PERMIT SUMMARY (Cont'd)

d. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the Bingham Hatchery facility.

May 31, 1988 – Mariculture Products, Ltd. was issued a Waste Discharge License #W007577-41-A-N

November 10, 1992 – The application for transfer of the WDL was accepted for processing by the Department.

May 6, 1993 – The Waste Discharge License was transferred to Key Banks of Maine/Swan's Island Salmon, Ltd. in WDL #W007577-WA-B-T.

August 14, 1993 – The application for renewal of Waste Discharge License was accepted by the Department. September 3, 1993 a facility transfer application was received by the Department.

August 24, 1999 – The Department issued a two (2) year WDL permit #W007577-5Q-D-R, which changed the facility name to the Bingham Hatchery, Inc.

January 12, 2001 - The Department received authorization from the U.S. Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (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, and MEPDES permit #ME0l10159 has been utilized for this facility.

September 28, 2001 – The Department accepted a timely and complete General Application for renewal of WDL #W007577-5Q-D-R.

October 30, 2003 – USEPA extended Maine's NPDES program delegation to all but tribally owned lands. The Department maintains the authority to issue WDLs pursuant to Maine Law.

April 6, 2005 – The Department issued a renewal permit to Stolt Sea Farm, WDL #W007577-5Q-E-R/ME0110159.

June 27, 2007 – The Department reopened the permit for modification, and discontinued the permits annual macroinvertebrate biomonitoring requirements.

October 14, 2008 – The Department approved the minor revision of WDL #W007577-5Q-F-M/MEPDES #ME 0110159 which revised the daily maximum concentration limit for formalin based on revised Department BPJ of Ambient Water Quality Criteria.

2. PERMIT SUMMARY (Cont'd)

July 16, 2009 – The Department issued WDL #W007577-5Q-G-M/ MEPDES #ME0110159 minor revision of previous permit to revise the minimum monitoring frequency requirements for BOD and TSS based on revised Department best professional judgement. Additionally, this minor revision provided guidance for reporting analytical results which are below detection or the reporting limits.

March 16, 2010 – Cobscook Bay Salmon submitted a timely and complete General Application to the Department for renewal of the July 1, 2010 permit The application was accepted for processing on March 19, 2010 and was assigned WDL #W007577- 6F-H-R/ MEPDES #ME0110159.

July 1, 2010 - The Department issued WDL #W007577-6F-H-R to Cobscook Bay Salmon for a five-year term. The July 1, 2010 permit superseded WDL #W007577-5Q-E-R issued to Stolt Sea Farm, Inc. on April 6, 2005.

February 10, 2012 - The Department issued WDL #W007577-6F-I-T thereby transferring the July 1, 2010 permit from Cobscook Bay Salmon to Cooke Aquaculture USA Inc.

December 8, 2014 - Cooke submitted a timely and complete General Application to the Department for renewal of the July 1, 2010 permit (including the subsequent transfer). The application was accepted for processing on December 8, 2014 and was assigned WDL #W007577- 6F-J-R / MEPDES #ME0110159.

September 1, 2015 – The Department issued WDL #W007577- 6F-J-R/MEPDES #ME0110159, and eliminated the BOD5 monitoring requirements, phosphorus monthly average concentration and mass limits, monthly average report of fish on hand, pH monitoring requirements, and the formalin daily maximum concentration limits.

February 18, 2020 – Cooke Aquaculture submitted a timely and complete General Application to the Department for renewal the combined WDL/MEPDES permit and was assigned WDL #W007577-6F-K-R / MEPDES #ME0110159.

3. CONDITIONS OF PERMIT/LICENSE

Conditions of licenses, 38 M.R.S. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require the application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited,* 38 M.R.S. § 420 and Department rule *Surface Water Toxics Control Program,* 06-096 C.M.R. Ch. 530, require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants,* 06-096 C.M.R. Ch. 584 (last amended February

3. CONDITIONS OF PERMIT/LICENSE (Cont'd)

16, 2020), 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. § 467 (4)(A)(7) classifies the Kennebec River from the Wyman Dam to its confluence with the impoundment formed by the Williams Dam, which includes the river at the point of the Cooke's discharge, as Class A. *Standards for classification of fresh surface waters*, 38 M.R.S. § 465 (2) describes the standards for Class A waters. Relevant standards for Class A waters are as follows:

A. Class A waters must be of such quality that they are suitable for the designated uses of drinking water after disinfection; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; and as habitat for fish and other aquatic life. The habitat must be characterized as natural.

B. The dissolved oxygen content of Class A waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the one-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. The aquatic life and bacteria content of Class A waters must be as naturally occurs, except that the numbers of Escherichia coli bacteria in these waters may not exceed a geometric mean of 64 CFU or MPN per 100 milliliters of a 90-day interval or 236 CFU or MPN per 100 milliliters in more than 10 % of the samples in any 90-day interval.

C. Except as provided in this paragraph, direct discharges to these waters licensed after January 1, 1986, are permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the department shall require the applicant to objectively demonstrate to the department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available. Discharges into water of this classification licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist.

1. *This paragraph does not apply to a discharge of storm water that is in compliance with state and local requirements.*

2. *This paragraph does not apply to a discharge to Class A waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, if, in addition to satisfying all the requirements of this article, the applicant, prior to issuance of a discharge license, objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.*

4. RECEIVING WATER QUALITY STANDARD (Cont'd)

3. *This paragraph does not apply to aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by invasive species.*

4. *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 be equal to or better than the existing water quality of the receiving waters 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 subparagraph, the department shall notify the municipality in which the application is licensed to occur and port the notice on the department's publicly accessible website.*

5. *This paragraph does not apply to discharges of pesticides approved by the department that are:*
    a. *Unintended and an incidental result of the spraying of pesticides;*
    b. *Applied in compliance with federal labeling restrictions; and*
    c. *Applied in compliance statute, Board of Pesticides Control rules and best management practices.*
    d. *Storm water discharges to Class A waters must be in compliance with state and local requirements.*
    e. *Material may not be deposited on the banks of Class A waters in any manner that makes transfer of pollutants into the waters likely.*

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine Department of Environmental Protection 2018/2020/2022 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 Kennebec River main stem from Wyman Dam to Carrabassett River (Assessment Unit ME0103000312_337R) as "Category 2: Rivers and Streams Attaining Some Designated Uses- Insufficient Information for Other Uses.

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 (Total Maximum Daily Load (TMDL) Completed) due to USEPA approval of a Regional Mercury TMDL in December 2007. Maine has a fish consumption advisory for fish taken from all freshwater due to mercury. Many waters, and many fish from any given water, do not exceed the action level for

5. RECEIVING WATER QUALITY CONDITIONS

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 recommending limits on consumption for all freshwater fish. Maine has already instituted statewide programs for removal and reduction of mercury sources."

6. REASONABLE POTENTIAL

Pursuant to 33 U.S.C. § 1311(b)(1)(C) and 40 C.F.R. § 122.44(d)(1), NPDES permits must contain any requirements in addition to technology based effluent limitations (TBELs) that are necessary to achieve water quality standards established under 33 U.S.C. § 1311(b)(1)(C). In addition, limitations "must control any pollutant or pollutant parameter (conventional, non-conventional, or toxic) which the permitting authority determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard (WQS), including State narrative criteria for water quality," 40 C.F.R. § 122.44(d)(1)(i). To determine if the discharge causes, or has the reasonable potential to cause, or contribute to an excursion above any WQS, EPA considers: 1) existing controls on point and non-point sources of pollution; 2) the variability of the pollutant or pollutant parameter in the effluent; 3) the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity); and 4) where appropriate, the dilution of the effluent by the receiving water. *See* 40 C.F.R. § 122.44(d)(1)(ii).

If the permitting authority determines that the discharge of a pollutant will cause, has the reasonable potential to cause, or contribute to an excursion above WQSs, the permit must contain water quality-based effluent limitations (WQBELs) for that pollutant. *See* 40 C.F.R. § 122.44(d)(1)(i).

7. 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 C.F.R 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 of aquatic animals, annually, in a flow-through or recirculating system. The Bingham Fish Hatchery produces 100,000 pounds or more of aquatic animals annually, in a flow-through or recirculating system, and is therefore subject to regulation under this subpart.

40 C.F.R. 451.11 states that any existing point source subject to the *Flow-Through and Recirculating Systems Subcategory* must meet the following requirements, expressed as practices, representing the application of best practicable control technology currently available (BPT): 1) solids control; 2) materials storage; 3) structural maintenance; 4) recordkeeping; and 5) training. While 40 C.F.R. 451.11 does not establish numeric technology-based effluent limitation guidelines for this subcategory, it does provide that the permitting authority may require any modification to the BPT guidelines based on its exercise of its best practicable judgement. The BPT requirement identified in #1-5 on this

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (Cont'd)

paragraph are incorporated into the permit as Special Condition A. The basis statement for all other effluent limitations and monitoring requirements are explained in this section of the fact sheet.

Previous permitting actions established Special Condition L, Minimum Treatment Technology Requirement, to specify that the permittee must provide treatment equal to or better than 60-micron microscreen filtration. The Department is not prescribing the type of treatment that the permittee must provide. The permittee is responsible for ensuring compliance with the technology-based and water quality-based effluent limitations established in this permit. Therefore, the September 1, 2015, permit found that it was not necessary and eliminated the previous Special Condition L.

b. Flow: The previous permitting action established, and this permitting action is carrying forward, a monthly average discharge flow limitation of 11.25 million gallons per day (MGD) which is based on pump curve data provided by the applicant on the September 28, 2001, General Application for Waste Discharge Permit. The daily estimated minimum monitoring frequency requirement is also being carried forward this permitting action.

The following table summarizes effluent data reported on Discharge Monitoring Reports (DMRs) for the period of September 2015 through May 2025.

Flow (N=113) Outfall #001A

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	11.25	4.03 – 9.79	7.90

c. Dilution Factors: The department establishes applicable dilution factors for the discharge in accordance with freshwater protocols established in Surface Water Toxics Control Program, 06-096 C.M.R. 530. The department's Division of Environmental Assessment has determined the 1Q10, 7Q10, and harmonic mean flow for the Kennebec River at Bingham using flow facts from the USGS gage in Bingham (NWIS 01046500) for the 1987-2024 record period. Using these flows and a monthly average flow limit of 11.25 MGD for the hatchery's discharge, dilution factors for the facility were calculated as follows:

Modified Acute: 1/4th of 1Q10 = 317 cfs $\Rightarrow \frac{(317 \text{ cfs})(0.6464) + 11.25 \text{ MGD}}{11.25 \text{ MGD}} = 19.2{:}1$

Acute: 1Q10 = 1,267 cfs $\Rightarrow \frac{(1{,}267 \text{ cfs})(0.6464) + 11.25 \text{ MGD}}{11.25 \text{ MGD}} = 73.8{:}1$

Chronic: 7Q10 = 1,462 cfs $\Rightarrow \frac{(1{,}462 \text{ cfs})(0.6464) + 11.25 \text{ MGD}}{11.25 \text{ MGD}} = 85.0{:}1$

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (Cont'd)

c. Dilution Factors:

Harmonic Mean = 3,519 cfs $\Rightarrow \frac{(3{,}519 \text{ cfs})\ (0.6464) + 11.25 \text{ MGD}}{11.25 \text{ MGD}} = 203{:}1$

06-096 CMR 530(4)(B)(l) states,

> *Analyses using numerical acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone and to ensure a zone of passage of at least 3/4 of the cross-sectional area of any stream as required by Chapter 581. Where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design flow, up to and including all of it, as long as the required zone of passage is maintained.*

Final effluent from the Bingham Fish Hatchery is directed to an approximately 30-foot wide by 130-foot-long open channel that conveys the wastewater to the bank of the Kennebec River. The Department is making the best professional judgment that this discharge does not achieve complete and rapid mixing of the effluent with the receiving waters. Therefore, the Department is utilizing the default stream flow of¼ of the lQ10 in acute evaluations pursuant to 06-096 CMR 530.

d. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS): Neither the USEPA nor the Department has promulgated effluent limitation guidelines for BOD_5 or TSS that are applicable to the discharge from the Bingham Fish Hatchery. The previous permitting action established monthly average and daily maximum concentration limitations of 6 mg/L and 10 mg/L, respectively, for BOD_5 and TSS based on best professional judgement (BPJ) of best practicable treatment (BPT). The previous permit also established monthly average mass limitations of 528 lbs./day and 396 lbs./day, respectively, for BOD_5 and TSS based on BPJ. These limits were initially established in WDL #W007577-5Q-E-R issued on April 6, 2005. See the fact sheet associated with that permitting action for additional discussion regarding these limits.

The Department's Division of Environmental Assessment (DEA) reviewed fish hatchery information in consideration of using TSS as a surrogate for BOD_5. 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 BOD_5. BOD 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. As documented in the fact sheet associated with the July 1, 2010, permit, and based on a report entitled, *Stolt Sea Farm 2005 Ambient Water Quality Monitoring Report*, the discharge from the Bingham Fish Hatchery was not causing or contributing to a violation of narrative water quality standards from the presence of *Sphaerotilus natans*. Therefore, the Department concludes that the Kennebec River does not exhibit BOD-related impacts as a result of the discharge from the Bingham Fish Hatchery.

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (Cont'd)

d. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS) (Cont'd): The previous permitting action eliminated monitoring requirements for BOD_5. Based on new available information, during the September 2, 2015 permitting action, the Department determined that BOD_5 and TSS showed strong correlation and that TSS can be relied upon to reflect BOD_5 conditions.

A summary of the effluent TSS data as reported on the DMRs submitted to the Department for the period September 2015 through May 2025. During the noted monitoring and reporting period there was one excursion from the mass and concentration-based effluent monitoring and reporting limits.

TSS Mass (N=113)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	396	0.0 – 381	115.58
Daily Maximum	Range	36 – 538	140.95

TSS Concentration (N=113)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	0	0.5 - 6.4	1.77
Daily Maximum	0	1.0 – 8.0	2.11

This permitting action is carrying forward the monthly average mass and concentration limits for TSS, the daily maximum mass reporting requirement, and the previously established monitoring frequency of twice per month for TSS based on Department BPJ.

e. Total Phosphorus: The previous permitting action determined that there was no reasonable potential for the Bingham Fish Hatchery to exceed applicable water quality thresholds for phosphorus and eliminated the monthly average concentration and mass limitations. In accordance with 06-096 C.M.R. Ch. 583 §4(E), this permitting action establishes ambient and effluent monitoring requirements for the first 2 years of the permit. The Department plans to utilize the data collected to calculate future reasonable potentials analysis under the newly promulgated total phosphorus criteria. The ambient sampling should occur between the falls below the Bingham Dam, and the Austin Stream inflow.

Using the following calculations and criteria, the Bingham Fish Hatchery does not have a reasonable potential to exceed the Department's ambient water quality criterion, as adopted by the Board of Environmental Protection (BEP), of 0.019 mg/L total phosphorus for Class A waters. Since the previous permit eliminated monitoring limitations for phosphorus, the effluent concentration (Ce) is the mean data collect in 2010-2014 and the background concentration (Cs) is the average of samples taken in September 2014. The calculations are as follows:

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (Cont'd)

e. Total Phosphorus (Cont'd):

Reasonable Potential Analysis (BEP-adopted Criterion)

$$Cr = \frac{QeCe + QsCs}{Qr}$$

Qe = effluent flow = 11.25 MGD
Ce = effluent pollutant concentration = 0.12 mg/L
Qs = August median flow of receiving water = 2,590 cfs = 1,673 MGD
Cs = upstream concentration = 0.004 mg/L
Qr = receiving water flow = 1,674 MGD + 11.25 MGD = 1,685.25 MGD
Cr = receiving water concentrations

$$Cr = \frac{\left(11.25\ MGD\ x\ 0.12\frac{mg}{L}\right) + (1{,}674\ MGD\ x\ 0.004\frac{mg}{L})}{1{,}685.25\ MGD} = 0.005\ mg/L$$

Cr = 0.005 mg/L < 0.019 mg/L ⟶ No Reasonable Potential

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 phosphorus content in the effluent, being introduced into the wastewater collection and treatment system.

f. Fish on Hand: Previous permitting actions 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 September 2015 through May 2025 follows:

Fish on Hand Mass (N=113)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Daily Maximum	Report	335 – 436,024	238,746

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 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 reviewing the data, the Department believes that a once per month daily maximum mass reporting requirement is sufficient for purposes of assisting in compliance evaluations.

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (Cont'd)

f. Fish on Hand (Cont'd):

Therefore, the daily maximum fish on hand mass reporting requirement is being carried forward in this permitting action.

g. Formalin: Formalin is a drug used to treat fungal infections and external parasites of finfish and finfish eggs. The department has established ambient water quality criteria (AWQCs) for formalin of 45 mg/L for a one-hour exposure period and 25 mg/L for a 24-hour exposure period. Previous permitting actions established a daily maximum mass effluent limit for formalin of 228 lbs./day for both a 1-hour discharge period and a 24-hour discharge period. This mass limit was based on the following projected maximum formalin usage by the hatchery, as originally calculated in the April 6, 2005, permit:

> *The daily maximum mass limit is calculated based on the permittee's projected maximum amount of formalin used per day (5 gallons per 32-foot diameter tank times 5 tanks = 25 gallons) times the specific gravity of formalin (9.13 lbs./gal), resulting in a value of 228 lbs./day. This method was used to provide for flexibility management of necessary treatments and to ensure that formalin is not discharged in toxic amounts.*

The maximum projected formalin usage is much less than the water quality-based limits calculated using the department's 1-hour and 24-hour AWQCs for formalin, the hatchery's discharge limit of 11.25 MGD, and the modified acute dilution factor:

1-hour formalin mass limit = (1-hour AWQC) x (dilution factor) x (hatchery discharge limit/hour) x (8.34 lbs./mg/L·MGD)

= (45 mg/L) x (19.2) x (11.25 MGD x 1 Day/24 Hours) x (8.34 lbs./mg/L·MGD)

= **3,378 lbs./hour (= 81,065 lbs./day)**

24-hour formalin mass limit= (24-hour AWQC) x (dilution factor) x (hatchery discharge limit/day) x (8.34 lbs/mg/L·MGD)

= (24-hour AWQC) x (19.2) x (11.25 MGD) x (8.34 lbs./mg/L·MGD)

= **45,036 lbs./day**

This permitting action is carrying forward the projected daily maximum mass limit of 228 lbs./day for formalin. This permitting action is also carrying the minimum monitoring frequency requirement of once per treatment occurrence for formalin. The effluent quantity of formalin, as reported on the DMRs submitted to the Department for the period September 2015 through May 2025, ranged from 27.4 lbs./day to 219.1 lbs./day with a mean of 129.61 lbs./day (n = 104).

g. Temperature: *Regulations Relating to Temperature*, 06-096 C.M.R. 582 (last amended February 18, 1989), states that no discharge shall cause the ambient temperature of any freshwater body to be raised more than 5 degrees Fahrenheit, nor shall any discharge cause the temperature of any waters to exceed the USEPA national ambient water quality

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (Cont'd)

g. Temperature (Cont'd)

criteria established to protect all species of fish that are indigenous to the receiving waters. When the ambient temperature of any body of water naturally exceeds the applicable USEPA criteria, no thermal discharge may be allowed which alone or in combination with other discharges would raise the ambient temperature of the receiving water more than 0.5-degree Fahrenheit.

The Department has established that cold water fish species are indigenous to all Maine rivers and streams. USEPA has established maximum temperatures for the protection of growth and survival of cold-water fish as follows: a weekly average temperature of 66 degrees Fahrenheit; and a daily maximum temperature of 73 degrees Fahrenheit. Neither the USEPA nor Department have established BPT for non-contact cooling water.

The Department has made a best professional judgement determination that the maximum discharge flow of 5.7 MGD of non-contact cooling heat exchange water will not cause a measurable change in ambient river temperature when it is 4-5 degree Fahrenheit less than the river temperature. The Department has authorized the discharge of non-contact heat exchange water but not establishing monitoring or reporting requirements.

8. OPERATIONS AND MAINTENANCE (O&M) PLAN

The previous permitting actions have 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 the previous permitting action, the Department revised this condition to incorporate and require inclusion of best practicable technology (BPT) currently available, pursuant to 40 C.F.R. 451.11 to include the following items: 1) solids control; 2) materials storage; 3) structural maintenance; 4) recordkeeping; and 5) training. Additionally, the O&M Plan must now include a section on wastewater operations.

9. PROTECTION OF ATLANTIC SALMON

The U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration National Marine Fisheries Service (collectively referred to as the Services), issued a final rule listing Atlantic Salmon populations in certain Maine rivers and streams as "endangered' under the Federal Endangered Species Act. In that decision, the Gulf of Maine Distinct Population Segment (DPS) encompassed all naturally reproducing remnant populations of Atlantic Salmon downstream of the former Edwards Dam site on the Kennebec River to the mouth of the St. Croix River. The watershed structure, available Atlantic Salmon habitat, and the abundance of Atlantic Salmon at various life stages were best known for the following eight rivers: Denny's River, East Machias River, Machias River, Pleasant River, Narraguagus River, Ducktrap River, Sheepscot River, and Cove Brook. On June 15, 2009, the Services expanded the Gulf of Maine DPS to include Atlantic Salmon in the Penobscot River. Two significant issues of concern regarding the rearing of salmon in Maine involve the genetic integrity of the salmon and escape prevention to avoid impacts on native fish.

9. PROTECTION OF ATLANTIC SALMON (Cont'd)

On December 4, 2000, in regard to the Department's pending delegation to administer the NPDES Permit Program, the USEPA Region I informed the Department that *"permits issued to freshwater hatcheries raising salmon will require that the facility be designed or modified to achieve zero escapement of fish from the facility."* The USEPA also stated, *"The information contained in the Services' listing documents indicates that a remnant population of wild Atlantic salmon is present in..."* Maine waters"*...and that salmon fish farms and hatcheries are activities having a significant impact on the ..."* Gulf of Maine Distinct Population Segment (DPS) of Atlantic salmon"*...through, among other things, the escape of farmed and non-North American strains of salmon which may interbreed with the wild Maine strains, compete for habitat, disrupt native salmon redds, and spread disease."* *"Based on this information, the Services have concluded that the escape of farm-raised salmon fish farms and hatcheries is likely to significantly impair the growth, reproduction and habitat of wild salmon, thereby impairing the viability of the DPS."* *"EPA has analyzed current information, including these findings, and based on this information believes that this remnant population constitutes an existing instream use of certain Gulf of Maine rivers and considers that the above-described impacts to the population would be inconsistent with Maine's water quality standards. Assuming the information discussed above does not significantly change, EPA will utilize its authorities to ensure compliance with Maine water quality standards by ensuring that conditions to protect the remnant population of Atlantic salmon are included in NPDES permits for salmon fish farms and hatcheries, which are subject to regulation as concentrated aquatic animal production facilities."* *"In view of the substantial danger of extinction to the DPS described by the Services, it is EPA's view that proposed permits authorizing activities that would adversely affect the population, as described earlier in this letter, would be inconsistent with Maine's water quality standards and objectionable under the CWA."*

10. ANTI-BACKSLIDING

Federal regulation 40 C.F.R. §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 except for provisions specified in the regulation, effluent limitations, standards, or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit.

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

10. ANTI-BACKSLIDING (Cont'd)

issuance. All limitations in this permit [ASIDE FROM ANY JUSTIFIED BACKSLIDING] are equally or more stringent than those in the previous permit.

11. ANTI-DEGREDATION

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 A waters.

12. PUBLIC COMMENTS

Public notice of this application was made in the *Kennebec Journal* newspaper on or about February 10, 2020. 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).

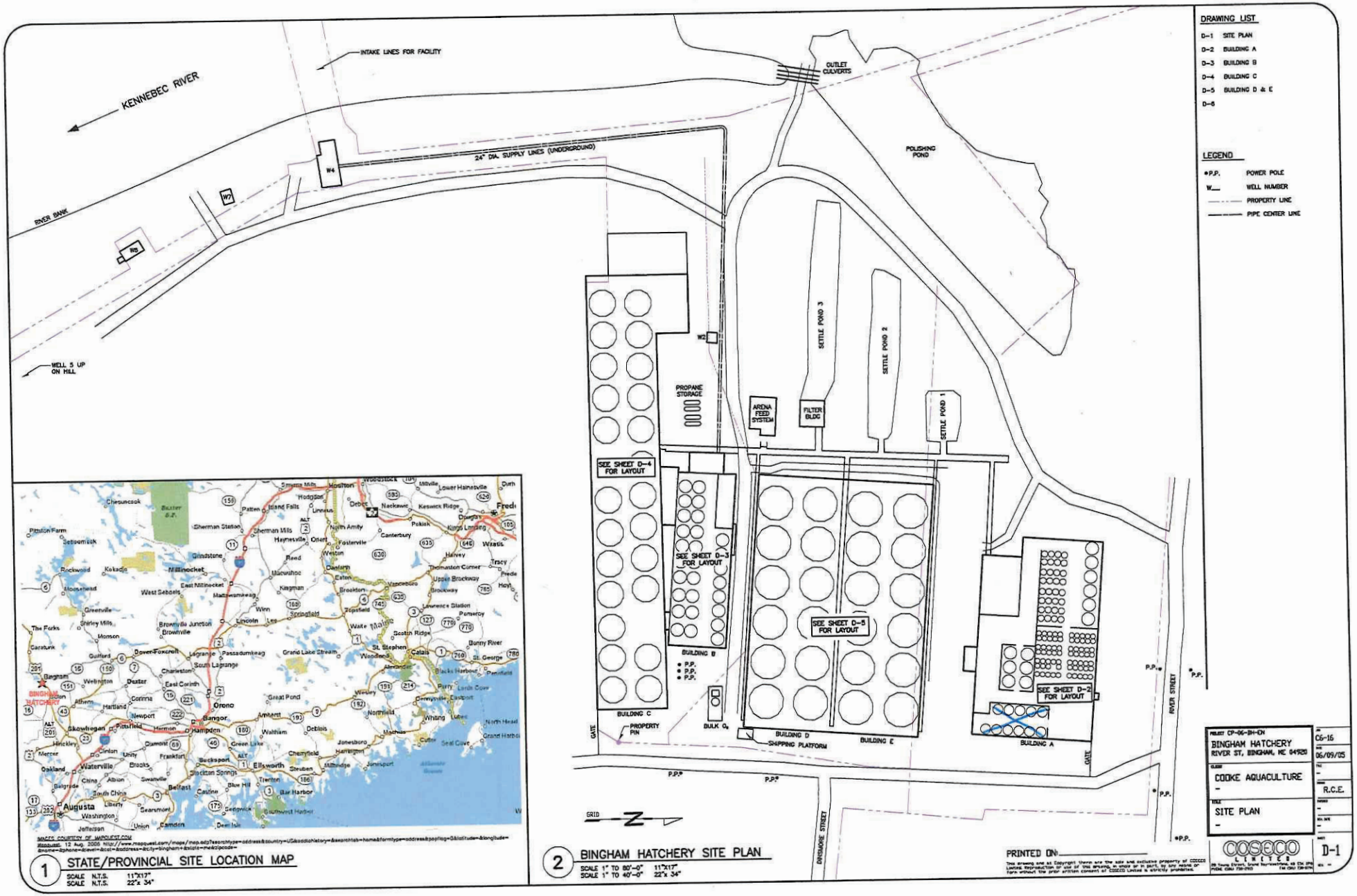
13. DEPARTMENT CONTACTS

GRACE VIERLING
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
Telephone: (207)248-2032
e-mail: grace.vierling@maine.gov

14. RESPONSE TO COMMENTS

RESERVED

ATTACHMENT B

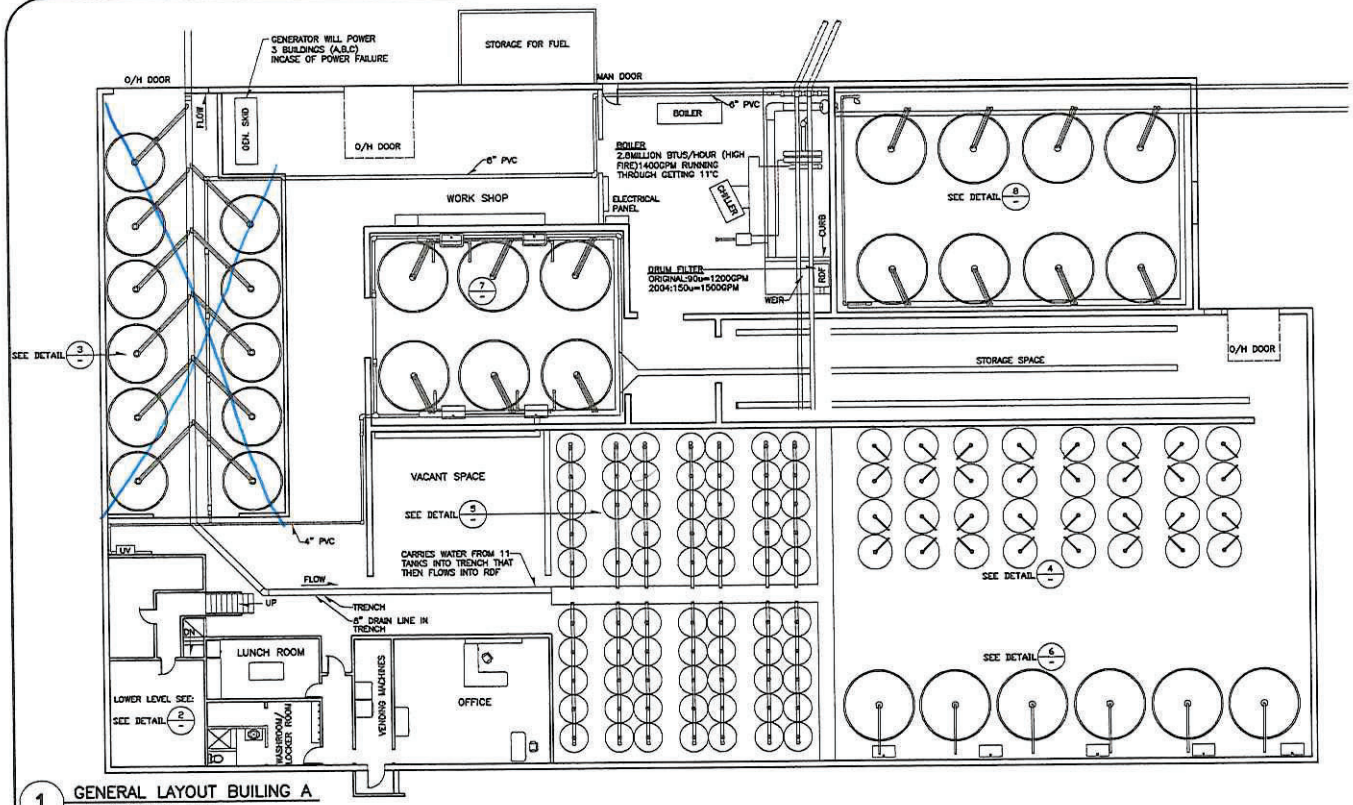


1 STATE/PROVINCIAL SITE LOCATION MAP

SCALE N.T.S. 11"X17"
SCALE N.T.S. 22"x 34"

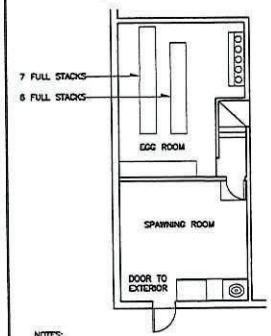
2 BINGHAM HATCHERY SITE PLAN

SCALE 1" TO 80'-0" 11"X17"
SCALE 1" TO 40'-0" 22"x 34"



1 GENERAL LAYOUT BUILING A

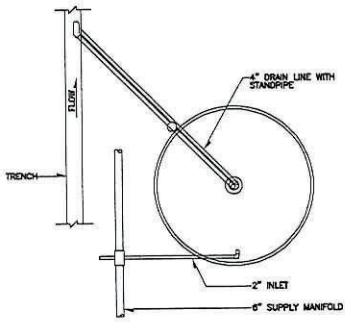
SCALE 3/64" TO 1'-0" 11"X17"
SCALE 3/32" TO 1'-0" 22"x 34"



NOTES:
#1 FULL STACK HAS 16 HEATH TRAYS

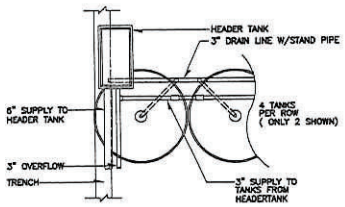
2 LOWER LEVEL:EGG AND SPAWNING ROOM

SCALE 1/2" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"



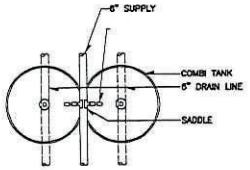
3 TYP TANK SETUP

SCALE 1/2" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"



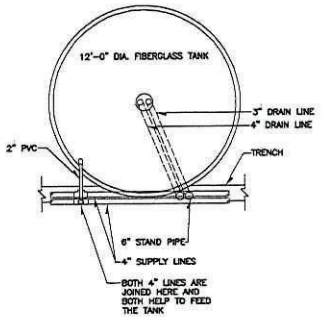
4 TYP TANK SETUP

SCALE 1/2" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"



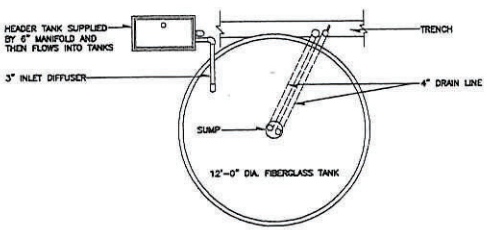
5 TYP TANK SETUP

SCALE 1/2" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"



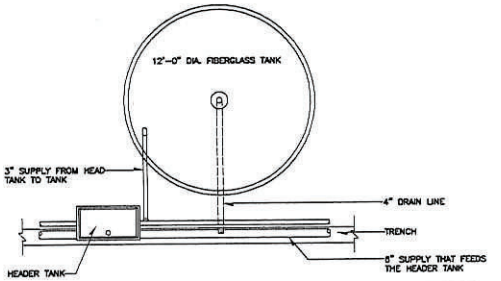
8 TYP TANK SETUP

SCALE 1/2" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"



7 TYP TANK SETUP

SCALE 1/2" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"



6 TYP TANK SETUP

SCALE 1/2" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"

PROJECT CP-06-BH-EN
BINGHAM MAINE
RIVER ST., BINGHAM, ME 04920

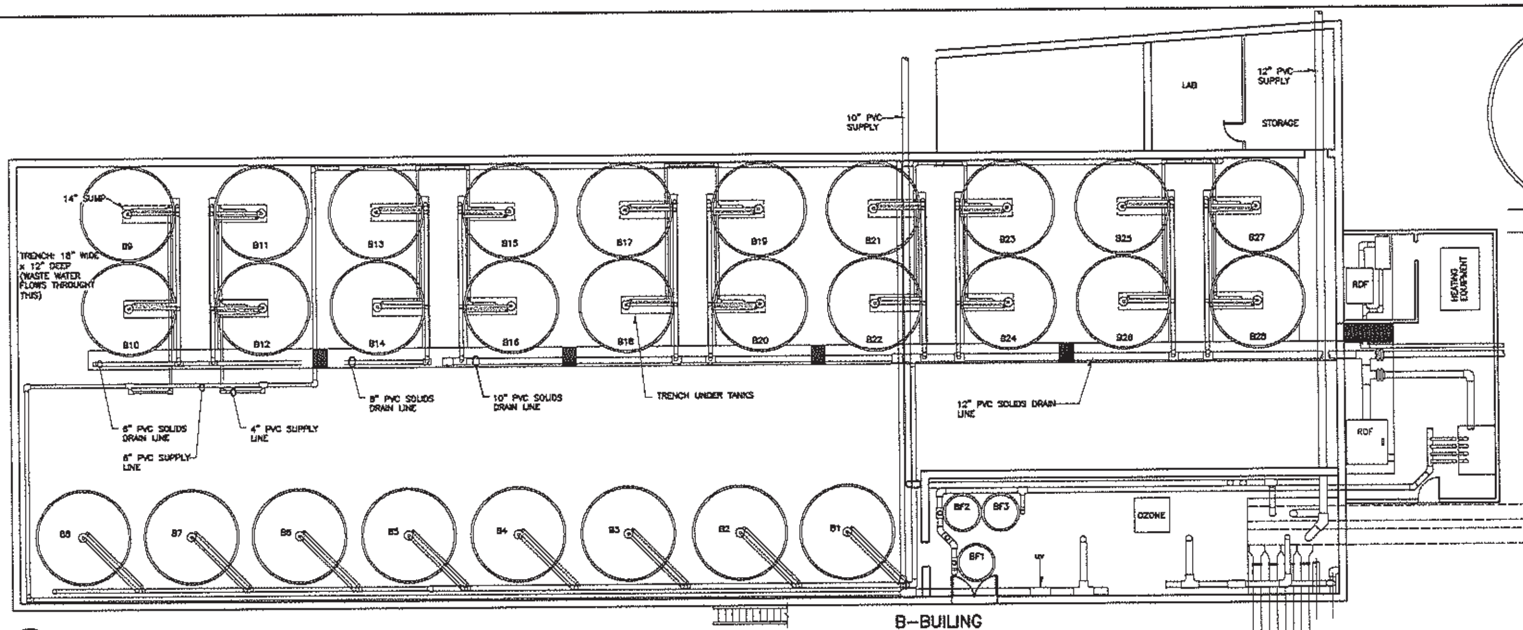
CLIENT
COOKE AQUACULTURE

TITLE
GERNERAL LAYOUT BUILDING A

JOB 0616
DATE 06/09/05
DRAWN KLC
SHEET D-2

PRINTED ON _____

COSECO LIMITED



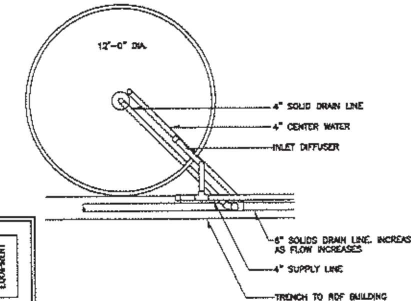
1 GENERAL LAYOUT BUILING B

SCALE 1/16" TO 1'-0" 11"X17"
SCALE 1/8" TO 1'-0" 22"x 34"

B-BUILING

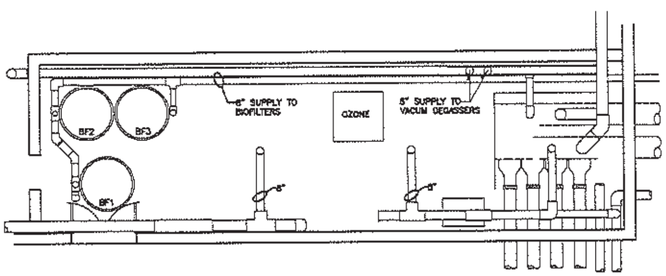
CONCRETE BLOCK WALLS, STEEL TRUSS ROOFING SYSTEM
CONCRETE SLAB FLOOR
ALL TANKS: 12'-0" DIA. FIBREGLASS TANKS, 3'LIP, 4'-0" DEPTH

ONLY BUILDING CURENTLY ON RE-CIRCULATION



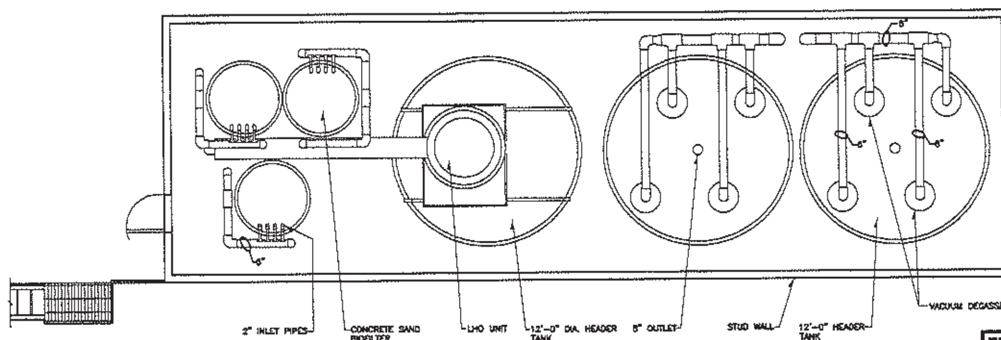
2 TYPICAL TANK SETUP

SCALE 1/8" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"



3 UPPER LEVEL MECHANICAL ROOM

NTS 11"X17"
NTS 22"x 34"

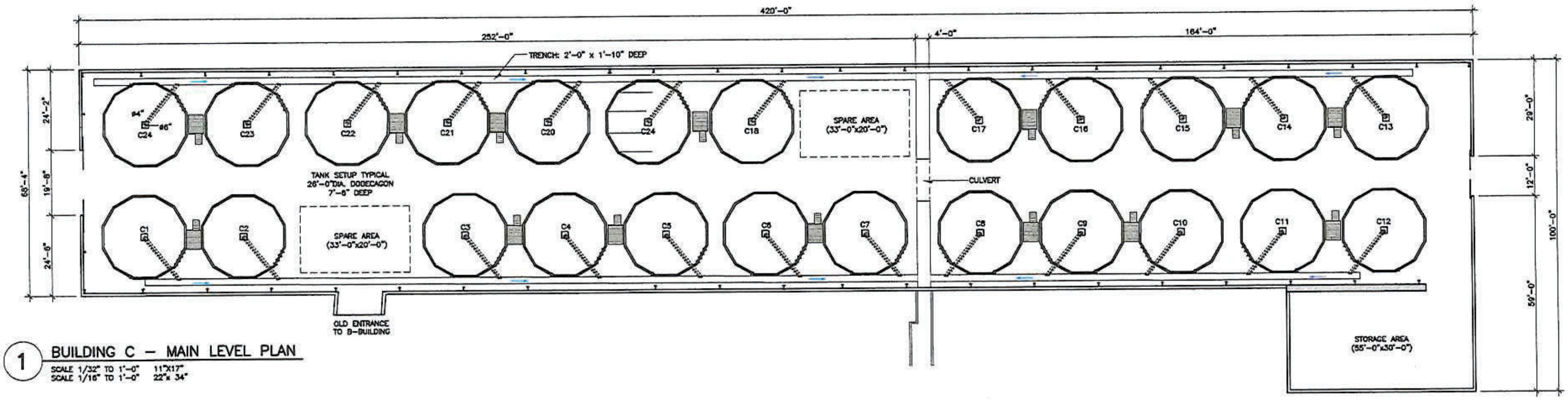


4 GROUND FLOOR MECHANICAL ROOM

SCALE 1/8" TO 1'-0" 11"X17"
SCALE 1/4" TO 1'-0" 22"x 34"

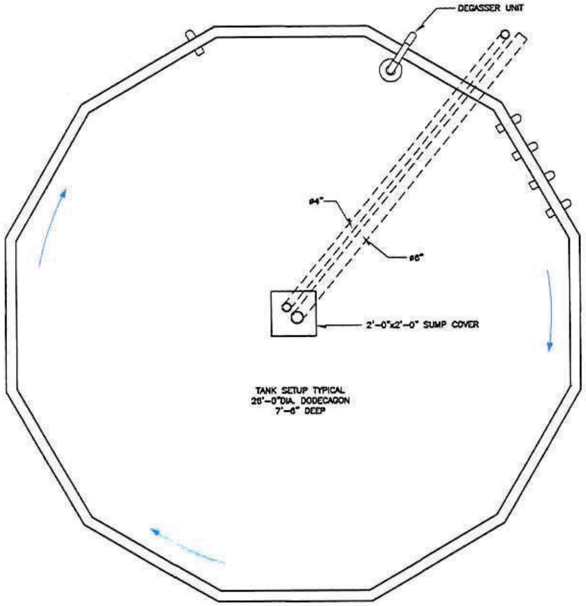
PROJECT CP-06-BH-EN BINGHAM HATCHERY RIVER ST., BINGHAM, ME 04920	06-16 06/09/05
CLIENT COOKE AQUACULTURE -	K.L.C
TITLE GENERAL LAYOUT BUILDING B	
COSECO LIMITED	D-3

PRINTED ON:



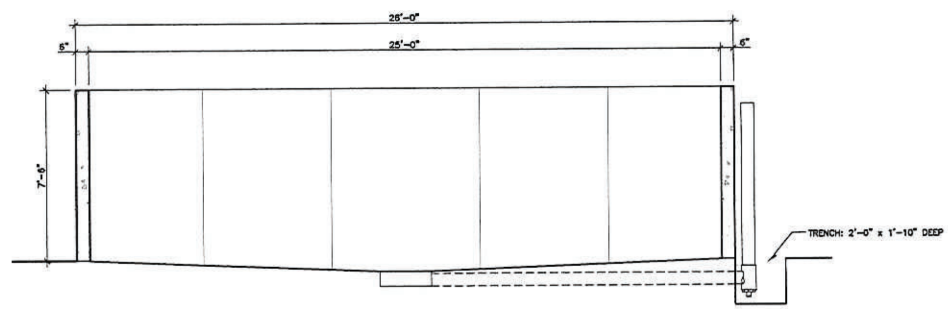
1 BUILDING C – MAIN LEVEL PLAN

SCALE 1/32" TO 1'-0" 11"X17"
SCALE 1/16" TO 1'-0" 22"x 34"



2 BUILDING C – TANK DETAIL

SCALE 3/16" TO 1'-0" 11"X17"
SCALE 3/8" TO 1'-0" 22"x 34"

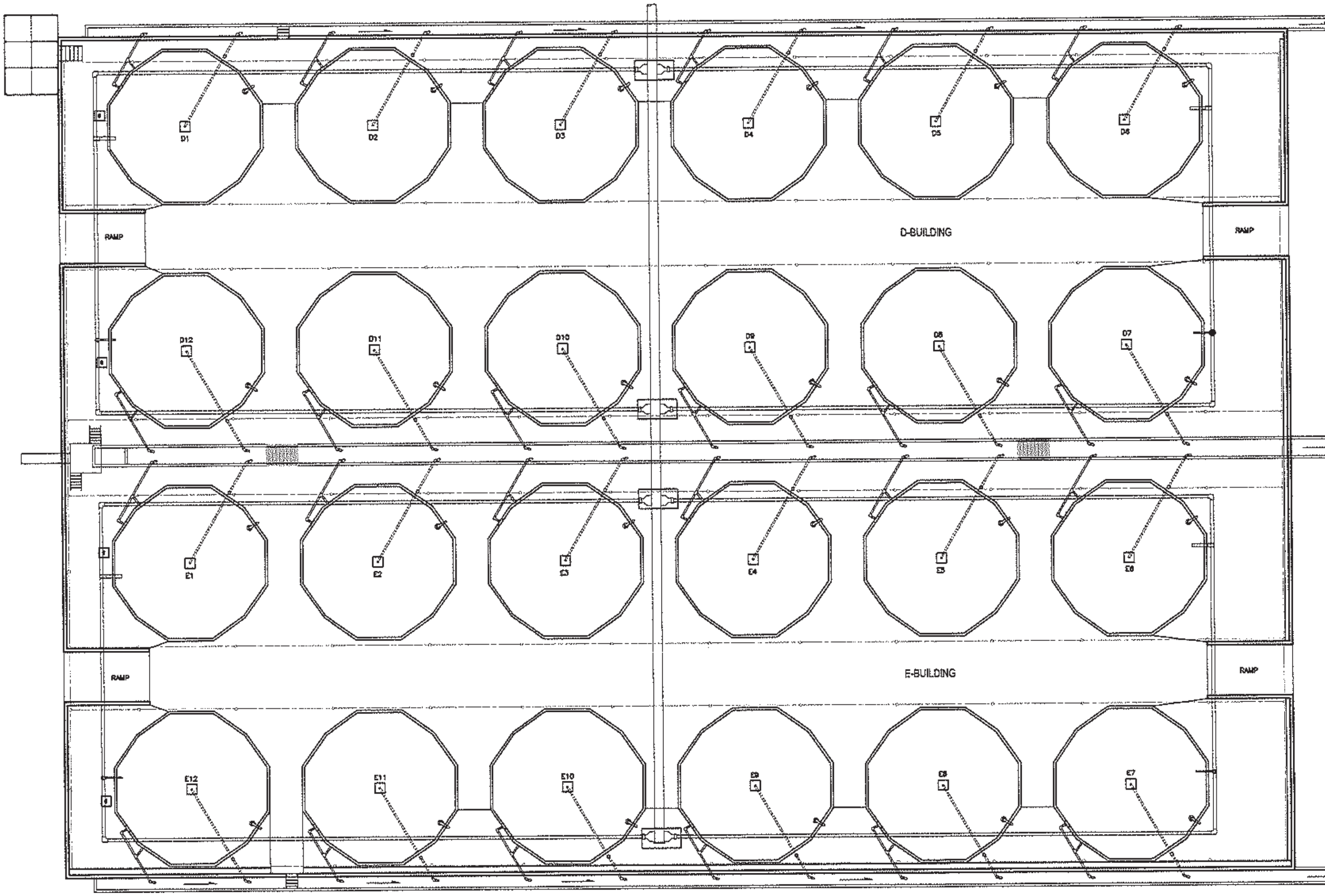


3 BUILDING C – TANK SECTION

SCALE 3/16" TO 1'-0" 11"X17"
SCALE 3/8" TO 1'-0" 22"x 34"

PRINTED ON: ____________________

PROJECT CP-06-BH-EN BINGHAM HATCHERY RIVER ST., BINGHAM, ME 04920	C6-16 06/09/05
CLIENT COOKE AQUACULTURE	– R.C.E.
TITLE BUILDING C –	– –
COSECO LIMITED	SHEET D-4 REV. –



1 BINGHAM HATCHERY: BUILDINGS D & E

SCALE 3/64" TO 1'-0" 11"X17"
SCALE 3/32" TO 1'-0" 22"X 34"

PRINTED ON: ____________

CP-06-BH-CN
BINGHAM HATCHERY
RIVER ST. BINGHAM, ME

COOKE AQUACULTURE

BUILDINGS D & E

C6-16
06/09/05
R.C.E.

COSECO LIMITED

D-5

CONTENTS

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).

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 if 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 MAINTENACE 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

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.

(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.

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.

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

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).

(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.

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 contaminates 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.

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.

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.

DEP INFORMATION SHEET

Appeals to the Board of Environmental Protection

Date: November 2024 **Contact: Clerk.BEP@maine.gov or (207) 314-1458**

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of: (1) a final license decision made by the Commissioner of the Department of Environmental Protection ("DEP"); or (2) an insurance claim-related decision ("Clean-up and Response Fund decision") made by the Commissioner or the Office of State Fire Marshal pursuant to 38 M.R.S. § 568-A.

Except as explained below, there are two methods available to an aggrieved person seeking to appeal a license decision made by the Commissioner or a Clean-up and Response Fund decision: (1) an administrative appeal before the Board of Environmental Protection ("Board"); or (2) a judicial appeal before Maine's Superior Court. An aggrieved person seeking review of a license decision or Clean-up and Response Fund decision made by the Board may seek judicial review in Maine's Superior Court.

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review the applicable rules and statutes, including the DEP's Chapter 2 rule, *Processing of Applications and Other Administrative Matters* (06-096 C.M.R. ch. 2); Organization and Powers, 38 M.R.S. §§ 341-D(4) and 346; and the Maine Administrative Procedure Act, 5 M.R.S. § 11001.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Within 30 calendar days of the date of: (1) a final license decision of the Commissioner; or (2) a Clean-up and Response Fund decision, an aggrieved person may appeal to the Board for review of that decision. "Aggrieved person" means any person whom the Board determines may suffer a particularized injury as a result of a Commissioner's license decision or a Clean-up and Response Fund decision. A complete appeal must be received by the Board no later than 5:00 p.m. on the 30th calendar day of the decision being appealed. With limited exception, untimely appeals will be dismissed.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail (e-mail) and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
Clerk.BEP@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee, if the appellant is not the licensee; and (3) if a hearing was held on the application, any intervenors in that hearing proceeding. For appeals of Clean-up and Response Fund decisions made by the State Fire Marshal, the appellant must also send a copy of the appeal to the State Fire Marshal. **Please contact the Board Clerk at clerk.bep@maine.gov or DEP staff at 207-287-7688 with questions or for contact information regarding a specific license or Clean-up and Response Fund decision.**

REQUIRED APPEAL CONTENTS

A written appeal must contain the information specified in Chapter 2, section 23(B) or section 24(B), as applicable, at the time the appeal is submitted. **Please carefully review these sections of Chapter 2**, which is available online at https://www.maine.gov/sos/cec/rules/06/chaps06.htm, or contact the Board Clerk to obtain a copy of the rule. Failure to comply with the content of appeal requirements may result in the appeal being dismissed pursuant to Chapter 2, section 23(C) or section 24(C).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with the administrative record.* Generally, the record on which the Board decides an appeal is limited to the record prepared by the agency in its review of the application, any supplemental evidence admitted to the record by the Board Chair and, if a hearing is held on the appeal, additional evidence admitted during the hearing. A person who seeks to appeal a decision to the Board is encouraged to contact the DEP (or State Fire Marshal for Clean-up and Response Fund decisions made by that agency) to inspect the record before filing an appeal.

2. *Be familiar with the applicable rules and laws.* An appellant is required to identify the licensing criterion or standard the appellant believes was not satisfied in issuing the decision, the bases of the objections or challenges, and the remedy sought. Prior to filing an appeal, review the decision being appealed to identify the rules and laws that are applicable to the decision. An appellant may contact the DEP or Board staff with any questions regarding the applicable rules and laws or the appeal procedure generally.

3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a separate stay of the decision is requested and granted (*see* Chapter 2, section 23(M)), the licensee may proceed with an approved project pending the outcome of the appeal. Any activity initiated in accordance with the approved license during the pendency of the appeal comes with the risk of not knowing the outcome of the appeal, including the possibility that the decision may be reversed or modified by the Board.

4. *Alternative dispute resolution.* If the appeal participants agree to use mediation or another form of alternative dispute resolution ("ADR") to resolve the appeal and so notify the Board, the Board will not hear the matter until the conclusion of that effort, provided the participants engaged in the alternative dispute resolution demonstrate satisfactory progress toward resolving the issues. *See* Chapter 2, section 23(H) or contact the Board Executive Analyst (contact information below) for more information on the ADR provision.

What to Expect Once You File a Timely Appeal with the Board

The Board will acknowledge receipt of each appeal and develop a service list of appeal participants and any interested persons for use in the appeal proceeding. Electronic mail (e-mail) is the preferred method of communication during an appeal proceeding; however, the Board reserves the right to require paper copies of all filings. Once the Board Chair rules on the admissibility of all proposed supplemental evidence, the licensee (if the licensee is not the appellant) may respond to the merits of the appeal. Instructions specific to each appeal will be provided in correspondence from the Board Executive Analyst or Board Chair. Generally, once all filings in an appeal proceeding are complete, the DEP staff will assemble a packet of materials for the Board (Board packet), including a staff recommendation in the form of a proposed Board Order. Once available, appeal participants will receive a copy of the Board packet and an agenda with the meeting location and start time. Once finalized, the meeting agenda will be posted on the Board's webpage https://www.maine.gov/dep/bep/index.html. Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board. *See* Chapter 2, Section 23(I). The Board may affirm all or part of the decision under appeal; affirm all or part of the decision under appeal with modifications, or new or additional conditions; order a hearing to be held as expeditiously as possible; reverse the decision under appeal; or remand the decision to the Commissioner or State Fire Marshal, as applicable, for further proceedings.

II. Judicial Appeals

The filing of an appeal with the Board is not a prerequisite for the filing of a judicial appeal. Maine law generally allows aggrieved persons to appeal final license decisions to Maine's Superior Court (*see* 38 M.R.S. § 346(1); Chapter 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A judicial appeal by a party to the underlying proceeding 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 aggrieved person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. *See* 38 M.R.S. § 346(4), the Maine Administrative Procedure Act, statutes governing a particular license decision, and the Maine Rules of Civil Procedure for substantive and procedural details applicable to judicial appeals.

Additional Information

If you have questions or need additional information on the appeal procedure, for administrative appeals contact the Board Clerk at clerk.bep@maine.gov or 207-287-2811 or the Board Executive Analyst at bill.hinkel@maine.gov or 207-314-1458, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and rule provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal, and to comply with notice requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9061. This information sheet is not intended to supplant the parties' obligations to review and comply with all statutes and rules applicable to an appeal and insofar as there is any inconsistency between the information in this document and the applicable statutes and rules, the relevant statutes and rules apply.