STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

To: Board of Environmental Protection

From: Phil Garwood, Division of Water Quality Management, BLWQ

Date: May 20, 2010

Re: Administrative Consent Agreement – Maine Department of Inland Fisheries and Wildlife

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Statutory References: Title 38, section 414(5) states it is illegal to violate the terms and conditions of waste discharge licenses issued by the Department of Environmental Protection.

Location: Augusta, Casco, Embden, Enfield, Grand Lake Stream Plantation, Gray, New Gloucester, Palermo and Phillips, Maine

Description: The Maine Department of Inland Fisheries and Wildlife ("MDIFW") owns nine facilities around the State of Maine for hatching and rearing a variety of cold water fish, primarily trout species. These facilities require high quality waters for raising fish, and therefore are mostly located on headwater streams and discharge to waters of higher classifications. Because of their locations, the discharge limitations placed upon these facilities are stringent. This Consent Agreement resolves a variety of violations at all nine MDIFW hatcheries/rearing stations. The violations include conventional pollutant license limit exceedences, failure to test appropriately for pH, late submittals of various reports and DMRs, failure to maintain all equipment in operable condition, and causing waters to fail to meet class standards.

Environmental Significance: Most of the violations did not result in measurable adverse impacts to the water quality of the receiving waters. However, for the Governor Hill Hatchery in Augusta, ambient biomonitoring demonstrated that the aquatic invertebrate community was not meeting the standards of Class B waters due to nutrient enrichment. Algal blooms were present as well. At two other facilities, Casco and Embden, there were transient problems in the ambient water quality during times when the treatment systems were not operable. MDIFW hired a consultant during 2009, and has developed designs for improvements at several of these facilities, most notably to install treatment at Grand Lake Stream Hatchery, provide improved treatment at the Augusta hatchery, and provide additional clarification at the Palermo facility. The clarification improvements at Palermo will be the pilot work to develop similar improvements at Casco and Enfield.

Department Recommendation: There is a monetary penalty, which has been suspended providing that the corrective actions are completed as scheduled. The first two corrective action dates have been met and MDIFW is making good progress on the remaining schedule. Staff recommends approval of the Agreement as presented.

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IN THE MATTER OF:

MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE PROTECTION AND IMPROVEMENT OF WATERS EIS DOCKET NUMBER 2008-119-W	)))))	**ADMINISTRATIVE CONSENT AGREEMENT** **(38 M.R.S.A. § 347-A)**

This Agreement, by and among the Maine Department of Inland Fisheries and Wildlife ("IF&W"), the Maine Department of Environmental Protection ("Department"), and the State of Maine Office of the Attorney General ("AG") is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. IF&W is a state agency that currently operates eight facilities across the state for hatching and rearing several salmonid fish species for stocking into state waters. For much of the period covered by this agreement, IF&W operated nine facilities, but the facility in Phillips was closed in June 2008. Paragraphs 87-95 describe the Phillips facility and violations that took place there prior to closure.

2. This consent agreement is divided into sections for describing the details of hatchery facilities and management practices, as well as violations, at each facility. The sections of facility-specific details are followed by paragraphs containing provisions for corrective actions to be done at specific facilities or affecting the IF&W hatchery program as a whole.

I. Governor Hill Hatchery and Rearing Station – Augusta, ME

3. IF&W operates its Augusta hatchery and rearing station under Waste Discharge License #W002034-5Q-B-R and Maine Pollutant Discharge Elimination System Permit ME0001091 ("Augusta WDL"), issued on July 5, 2006 by the Department for the discharge of 1.2 million gallons per day ("mgd") of fish rearing and hatchery waste waters to Spring Brook, Class B, in Augusta, Maine, subject to a series of standard and special conditions. The Augusta WDL was modified on October 10, 2008 to revise formalin limits based on new information.

4. The IF&W Governor Hill facility ("IF&W Augusta") is a state brook trout, lake trout, and splake hatchery and rearing facility. IF&W Augusta hatchery and rearing facility flow-through and cleaning wastewaters are discharged to the facility's in-stream settling pond, which consists of a 30-foot x 700-foot x 3-foot deep (471,270-gallons) enlarged and dammed area of Spring Brook. The settling pond is cleaned as needed through dredging with accumulated materials removed and properly disposed.

5. The Augusta WDL limits the discharge of Biochemical Oxygen Demand ("BOD") to a monthly average mass of 17 pounds per day ("lb/day") from outfall 005A. During the following months, IF&W Augusta discharged BOD in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average
License Limit	17 lb/day
Nov 06	21
Mar 07	26
Jun 07	35
Jan 09	18
Apr 09	18

6. The Augusta WDL limits the discharge of Total Suspended Solids ("TSS") to a monthly average mass of 17 lb/day from outfall 005A. During the following months, IF&W Augusta discharged TSS in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average
License Limit	17 lb/day
Feb 07	24
Apr 07	28
Jun 07	54
Jan 09	18

7. The Augusta WDL limits the discharge of total phosphorus to monthly average mass of 0.24 lb/day and monthly average concentration of 0.035 milligrams per liter ("mg/L") from outfall 005A. During the following months, IF&W Augusta discharged total phosphorus in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Monthly Average Concentration
License Limits	0.24 lb/day	0.035 mg/L
Aug 06	0.47	0.047

Sep 06	0.47	0.047
Jun 07	0.6	0.06
Jul 07	0.51	0.051
Aug 07	0.555	0.056
Sep 07	0.45	0.045
Jun 08	0.51	0.051
Jul 08	0.395	0.040
Aug 08	0.355	0.036
Sep 08	0.33	
Jun 09	0.615	0.062
Jul 09	0.53	0.053
Aug 09	0.44	0.044
Sep 09	0.52	0.052

8. Special Condition A, footnotes and Standard Condition C(3)(d) of the Augusta WDL require sampling and testing to be completed in accordance with 40 CFR Part 136 or Department permit. Conducting pH sampling without proper equipment from August 2007 through June 2008 violated this condition and 38 M.R.S.A. § 414(5).

9. Special Condition A(1) of the Augusta WDL specifies one pH test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 through July 2007 violated these conditions and 38 M.R.S.A. § 414(5).

10. Special Condition B(4) of the Augusta WDL states that effluent from the facility must not lower the quality of the receiving water body below the standards of its class. As described above, IF&W Augusta discharges to Spring Brook, a class B water as designated under 38 M.R.S.A. § 467(4)(I). Pursuant to 38 M.R.S.A. § 465(3)(A), "Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; … and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired." In addition, pursuant to 38 M.R.S.A. § 465(3)(C), "Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community." Ambient bio-monitoring conducted in 2007 demonstrated that Spring Brook, below the IF&W discharge, did not meet Class B standards for aquatic macroinvertebrates, and that Spring and Bond Brooks at their confluence, approximately two miles downstream of the IF&W discharge, were exhibiting algal blooms during the same period of time that the facility was violating its phosphorus limits. Causing Spring Brook to fail to meet the standards of its class for aquatic macroinvertebrates and causing or contributing to algal blooms in Spring and Bond Brooks violated Special Condition B(4) of the Augusta WDL and 38 M.R.S.A. § 451.

11. Special Condition O of the Augusta WDL required submittal of an Ambient Dissolved Oxygen ("D.O.") and Temperature Monitoring Plan within one month of the license issuance date of July 5, 2006. The Ambient D.O. and Temperature Monitoring Plan was not submitted until October 31, 2008, thereby violating this condition and 38 M.R.S.A. § 414(5).

12. In an effort to identify the form and, possibly the source, of the elevated phosphorus in their effluent, IF&W Augusta conducted extra sampling that showed the large majority of the total phosphorus was in the dissolved form. This led to the conclusion that phosphorus was likely being solubilized from the accumulated sediment in the settling pond. Therefore IF&W Augusta had its settling pond dredged out, with project completion in October 2008. In addition to the dredging project, IF&W is conducting an evaluation of low-phosphorus fish feed.

II. Wade State Fish Hatchery – Casco, ME

13. IF&W operates its Casco hatchery under Waste Discharge License #W002038-5Q-B-R and Maine Discharge Elimination System Permit ME0001066 ("Casco WDL"), issued on May 8, 2006 by the Department for the discharge of 2.9 mgd of fish rearing and hatchery waste waters to Mile Stream, Class B, in Casco, Maine, subject to a series of standard and special conditions. The Casco WDL was modified on October 10, 2008 to revise formalin limits based on new information.

14. The IF&W Wade State Hatchery ("IF&W Casco") is a state landlocked Atlantic salmon, brook trout, brown trout, and rainbow trout hatchery and rearing facility. IF&W Casco rearing facility flow-through wastewaters are conveyed to a drum filter with a 30 micron screen and treated prior to discharge through outfall 005A to Mile Stream. Raceway cleaning wastewaters, drum filter backwash, and sludge storage overflow water are discharged to the facility's clarifier. The clarifier effluent is treated through the drum filter and discharged. The hatch house wastewaters are discharged directly to Mile Stream through outfall 006A.

15. The Casco WDL limits the discharge of BOD to a monthly average mass of 47.1 lb/day from outfall 005A. During the following months, IF&W Casco discharged BOD in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass
License Limit	47.1 lb/day
Sep 06	61
Jul 07	52

16. The Casco WDL limits the discharge of total phosphorus to a monthly average concentration of 0.035 mg/L from outfall 005A. During the following months, IF&W Casco discharged total phosphorus in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Concentration
License Limit	0.035 mg/L
Jul 06	0.053
Aug 06	0.053
Sep 06	0.055
Jul 09	0.055
Sep 09	0.040

17. The Casco WDL limits the discharge of D.O. to a daily minimum value of 7.5 mg/L. During September 2006, IF&W Casco discharged to Mile Stream treated effluent with D.O. concentration of 7.3 mg/L, below the license limit and in violation of 38 M.R.S.A. § 414(5).

18. The Casco WDL limits the discharge of total phosphorus through outfall 006A to a total annual mass of 5.5 pounds per year ("lb/yr"). During 2007, IF&W Casco discharged a total of 12.4 lb/yr of total phosphorus to Mile Brook in excess of its license limit and in violation of 38 M.R.S.A. § 414(5).

19. Special Condition A(1) of the Casco WDL specifies one pH test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 through July 2007 violated these conditions and 38 M.R.S.A. § 414(5).

20. Special Condition A, footnotes and Standard Condition C(3)(d) of the Casco WDL require sampling and testing to be completed in accordance with 40 CFR Part 136 or Department permit. Conducting pH sampling without proper equipment from August 2007 through June 2008 violated this condition and 38 M.R.S.A. § 414(5).

21. Standard Conditions B(1)(a) and B(1)(b) of the Casco WDL require the licensee to maximize the removal of pollutants and to maintain all treatment equipment in good working order. The drum-filter was off-line intermittently for an extended period of time from July through December 2006, thereby violating these conditions and 38 M.R.S.A. § 414(5).

22. Special Condition B(4) of the Casco WDL states that the effluent must not lower the quality of the receiving water body below the standards of its class. As described above, IF&W Augusta discharges to Mile Stream, a class B water as designated under 38 M.R.S.A. § 467(4)(I). Pursuant to 38 M.R.S.A. § 465(3)(A), "Class B waters must be of such quality that they are

suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; ... and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired." In addition, pursuant to 38 M.R.S.A. § 465(3)(C), "Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community." Ambient bio-monitoring conducted in 2006 demonstrated that Mile Brook below the IFW Casco discharge did not meet Class B standards for aquatic macroinvertebrates, due to superabundance of organisms. Causing Mile Brook to fail to meet the standards of its class for aquatic macroinvertebrates violated Special Condition B(4) of the Casco WDL and 38 M.R.S.A. § 451.

23. The sampling described in paragraph 22, above, was completed during the period when the drum filter was out of service. The drum filter proved initially to be unreliable because the belt drive repeatedly failed and the seals became dislodged. It appears now that IF&W Casco has been able to reduce drum filter down-time by re-aligning the drum. Now that the drum filter is operating reliably, ambient bio-monitoring will be repeated during 2010 to determine whether effluent quality has improved such that a superabundant population of aquatic macroinvertebrates will no longer be supported.

III. Ela Rearing Station - Embden, ME

24. IF&W operates its Embden rearing facility under Waste Discharge License #W002029-5Q-B-R and Maine Discharge Elimination System Permit ME0001139 ("Embden WDL"), issued on January 30, 2006 by the Department for the discharge of 4.75 mgd of fish rearing waste waters to Mill Stream, Class B, in Embden, Maine, subject to a series of standard and special conditions. The Embden WDL was modified on October 10, 2008 to revise formalin limits based on new information.

25. The IF&W Ela Rearing Station ("IF&W Embden") is a state brook trout, brown trout, splake and landlocked salmon rearing facility. IF&W Embden rearing facility flow-through and cleaning wastewaters are discharged to the facility's drum filter for screening prior to discharge through outfall 005A. The backwash from the drum filter is conveyed to a clarifier for settling of the screened solids. The supernatant from the clarifier is discharged to the effluent line where it mixes with the filter screen flow-through water prior to discharge through outfall 005A.

26. The Embden WDL limits the discharge of TSS to a monthly average mass of 238 lb/day, a daily maximum mass of 396 lb/day, a monthly average concentration of 6 mg/L and a daily maximum concentration of 10 mg/L from outfall 005A. During the following months, IF&W Embden discharged TSS in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Daily Maximum Mass	Monthly Average Concentration	Highest Daily Maximum Concentration
License Limits	238 lb/day	396 lb/day	6 mg/L	10 mg/L
Feb 06	<360.29	648.52	<10	18

27. The Embden WDL limits the discharge of total phosphorus to monthly average mass of 1.4 lb/day and monthly average concentration of 0.035 mg/L from outfall 005A. During the following months, IF&W Embden discharged total phosphorus in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Monthly Average Concentration
License Limits	1.4 lb/day	0.035 mg/L
Jun06	1.5	0.038
Jul 06	3.5	0.09
Aug 06	2.7	0.067
Sep 06	3.6	0.092
Jun 07	2.1	0.054
Jul 07	2.2	0.056
Aug 07	2.5	0.063
Sep 07	2.5	0.064
Jun 08	1.6	0.041
Jul 08	1.9	0.047
Aug 08	4.6	0.115
Sep 08	5.7	0.145
Jun 09	1.6	0.05
Jul 09	3.1	0.08
Aug 09	3.2	0.08

28. The Embden WDL limits the discharge of D.O. from outfall 005A to a daily minimum value of 7.5 mg/L. During August 2007, IF&W Embden discharged treated effluent with D.O. concentration of 7.0 mg/L, below the license limit and in violation of 38 M.R.S.A. § 414(5).

29. Special Condition A(1) of the Embden WDL specifies one pH test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires

sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 into July 2008 violated these conditions and 38 M.R.S.A. § 414(5).

30. Standard Condition B(1)(a) of the Embden WDL requires the licensee to maximize the removal of pollutants, Standard Condition B(1)(b) requires the licensee to maintain all treatment equipment in good working order, Standard Condition B(2) requires the licensee to properly operate and maintain all treatment equipment and Standard Condition B(5) prohibits the bypass of waste treatment facilities. The micro-screen drum-filter went off-line from February 27, 2007 due to blockage of the pipeline to the clarifier. The drum filter was not returned to service until November 11, 2007. Also, the clarifier sludge pump failed during December 2006 and a replacement pump was not placed into operation until November 2007. Both of these incidents violated Standard Conditions B(1)(a), B(1)(b) and B(2). During the entire time that the drum filter was off-line, rearing station flows were bypassed to the receiving waters without any treatment, thereby violating Standard Condition B(5). All of the Standard Conditions violations described in this paragraph are also violations of 38 M.R.S.A. § 414(5).

31. Standard Condition D(1)(f) of the Embden WDL requires reporting within 24 hours and written reporting within 5 days of any non-compliance. Failure to report the bypass of the filter screen within 24 hours violated this condition and 38 M.R.S.A. § 414(5).

32. Special Condition B(4) of the Embden WDL prohibits discharges that cause the quality of the receiving water to fail to meet the standards of its class. As described above, IF&W Augusta discharges to Mill Stream, a class B water as designated under 38 M.R.S.A. § 467(4)(I). Pursuant to 38 M.R.S.A. § 465(3)(A), "Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; … and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired." In addition, pursuant to 38 M.R.S.A. § 465(3)(C), "Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community." On August 15, 2007 and September 12, 2007, Department staff observed solids deposits, superabundance of web-forming insect larvae and attached algal blooms in Mill Stream below the IF&W Embden discharge that were occurring during the time that the drum filter was out of service. These conditions did not meet Class B standards. Causing Mill Stream to fail to meet the standards of its class violated Special Condition B(4) of the Embden WDL and 38 M.R.S.A. § 451.

33. Special Condition C and Standard Condition A(1) of the Embden WDL prohibit the discharge of any waste waters not identified and authorized by the Embden WDL. The discharge of grey water from a sink drain into the sludge storage tank, which overflows to the clarifier and from there to the receiving water, violated these conditions and 38 M.R.S.A. § 414(5).

34. Special Condition E and Standard Condition D(1)(d) of the Embden WDL require the submittal of correct and complete monthly Discharge Monitoring Reports ("DMRs") prior to the 15th day

of the following month. IF&W Embden submitted its DMRs for February 2006 to December 2006, April 2007 through August 2007, August 2008 and September 2008 significantly later than the stated deadline. In some cases, DMRs were returned for correction of incomplete or incorrect information and were not considered submitted until correct. This delinquency violated these license conditions and 38 M.R.S.A. § 414(5).

35. Special Condition F of the Embden WDL required the submittal of a facility Operations & Maintenance Plan by July 1, 2006. The O&M Plan was not submitted until November 13, 2007, thereby violating this condition and 38 M.R.S.A. § 414(5).

36. Special Condition N of the Embden WDL required the submittal of an Ambient D.O. and Temperature Monitoring Plan by April 30, 2006. The Ambient D.O. and Temperature Monitoring Plan was not submitted until August 21, 2009, thereby violating this condition and 38 M.R.S.A. § 414(5).

37. In addition to returning the off-line drum filter and sludge pump to operational service in November 2007, IF&W Embden has also completed the following actions: to provide protection from freezing due to cold air intrusion, downward elbows with extensions and insulation have been added to the drum filter backwash pipeline where it discharges into the clarifier; the sludge storage tank has been cleaned of sludge and is no longer used for sludge storage; and accumulated solids are now removed from the clarifier rather than from the sludge storage tank. Additionally, during a site inspection on October 8, 2008, Department staff determined that Mill Stream below the IF&W Embden discharge was no longer severely impacted as described in paragraph 32, above.

IV. Cobb State Hatchery – Enfield, ME

38. IF&W operates its Enfield rearing facility under Waste Discharge License #W002032-5Q-B-R and Maine Discharge Elimination System Permit ME0001104 ("Enfield WDL"), issued on March 31, 2006 by the Department for the discharge of 4.75 mgd of fish rearing waste waters to Cold Stream, Class A as designated under 38 M.R.S.A. § 467(7)(F)(6), in Enfield, Maine, subject to a series of standard and special conditions. The Enfield WDL was modified on October 10, 2008 to revise formalin limits based on new information.

39. The IF&W Cobb State Fish Hatchery ("IF&W Enfield") is a state brook trout, lake trout, splake, landlocked salmon and whitefish rearing facility and hatchery. IF&W Enfield rearing facility flow-through wastewaters are discharged to the facility's drum filter for screening prior to discharge through outfall 005A. The drum filter backwash and the raceway cleaning waters are conveyed to a clarifier where the solids are settled prior to the supernatant being conveyed to the drum filter for screening prior to discharge. The settled solids are pumped to a sludge storage tank for holding until removal for land-spreading. The supernatant from the sludge storage tank is returned to the clarifier. The hatchery building wastewater is discharged untreated to Cold Stream through outfall 006A.

40. The Enfield WDL limits the discharge of BOD to a monthly average mass of 78 lb/day from outfall 005A. During the following months, IF&W Enfield discharged BOD in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass
License Limit	78 lb/day
Sep 06	83
Jul 08	<166

41. The Enfield WDL limits the discharge of TSS to a monthly average mass of 78 lb/day from outfall 005A. During July 2008, IF&W Enfield discharged <135 lb/day of TSS in excess of its license limit and in violation of 38 M.R.S.A. § 414(5).

42. The Enfield WDL limits the discharge of D.O. through outfall 006A to a daily minimum value of 7.5 mg/L. During June 2008, IF&W Enfield discharged treated effluent through outfall 006A with D.O. concentration of 6.7 mg/L, below the license limit and in violation of 38 M.R.S.A., § 414(5).

43. The Enfield WDL limits the discharge of BOD to a monthly average mass of 1.2 lb/day and a daily maximum mass of 6 lb/day from outfall 006A. During the following months, IF&W Enfield discharged BOD in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Daily Maximum Mass
License Limits	1.2 lb/day	6 lb/day
Jun 08	1.7	
Feb 09	2.4	

44. The Enfield WDL limits the discharge of formalin to a daily maximum mass of 1.4 lb/day and a daily maximum concentration of 144 mg/L for a one-hour treatment or 80 mg/L for a treatment greater than one hour from outfall 006A. During the following months, IF&W Enfield discharged formalin in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated.

Month	Highest Daily Maximum Mass	Highest Daily Maximum Concentration
License Limits	1.4 lb/day	144/80 mg/L
Nov 06	3.1	172
Nov 07	4.5	1389
Dec 07	4.0	1389.2

45. The Enfield WDL limits the flow from outfall 006A to a monthly average of 0.072 mgd. During the following months, IF&W Enfield discharged wastewater from outfall 006A with flow in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated.

Month	Monthly Average
License Limit	0.072 mgd
Apr 08	0.089
May 08	0.089
Jun 08	0.112
Jun 09	0.108

46. Special Condition A(1) of the Enfield WDL specifies one pH test, one total phosphorus test, one BOD test and one TSS test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 into June 2008, failure to test for orthophosphate for outfall 005A during June and July 2006 and for outfall 006A during June 2006, and failure to test for BOD and TSS for outfall 006A for February, March and April 2007 violated these conditions and 38 M.R.S.A. § 414(5).

47. Standard Condition B(1)(a) of the Enfield WDL requires the licensee to maximize the removal of pollutants, Standard Condition B(1)(b) requires the licensee to maintain all treatment equipment in good working order, Standard Condition B(2) requires the licensee to properly operate and maintain all treatment equipment and Standard Condition B(5) prohibits the bypass of waste treatment facilities. The micro-screen drum-filter was off-line from April 2006 to April 2007 due to failure of the drum to remain on the drive unit. Also, during an inspection in April 2007, Department staff discovered that the sludge storage tank was frozen and inoperable. Both of these incidents violated Standard Conditions B(1)(a), B(1)(b) and B(2). During the entire time that the drum filter was off-line, rearing station flows were bypassed to the receiving waters

without any treatment, thereby violating Standard Condition B(5). All of the Standard Condition violations described in this paragraph are also violations of 38 M.R.S.A. § 414(5).

48. Standard Condition D(1)(f) of the Enfield WDL requires reporting within 24 hours and written reporting within 5 days of any non-compliance. Failure to report the bypass of the filter screen and the frozen sludge storage tank within 24 hours violated this condition and 38 M.R.S.A. § 414(5).

49. Special Condition E, and Standard Condition D(1)(d) of the Enfield WDL require the submittal of monthly Discharge Monitoring Reports prior to the 15th day of the following month. IF&W submitted the May and September 2006, August, October and December 2007, and February 2008 DMRs later than the stated deadline, thereby violating these license conditions and 38 M.R.S.A. § 414(5).

50. Special Condition F of the Enfield WDL required the submittal of a facility Operations & Maintenance Plan by July 1, 2006. The O&M Plan was not submitted until January 23, 2007, thereby violating this condition and 38 M.R.S.A. § 414(5).

51. Special Condition O of the Enfield WDL required the submittal of an Ambient D.O. and Temperature Monitoring Plan by June 30, 2006. The Ambient D.O. and Temperature Monitoring Plan was not submitted until May 10, 2007, thereby violating this condition and 38 M.R.S.A. § 414(5).

52. Special Condition P of the Enfield WDL required the submittal of an Ambient Water Quality Monitoring Plan for *Sphaerotilus* by April 30, 2006. The *Sphaerotilus* plan was not submitted until January 31, 2008, thereby violating this condition and 38 M.R.S.A. § 414(5).

V. Grand Lake Stream State Hatchery – Grand Lake Stream Plantation, ME

53. IF&W operates its Grand Lake Stream hatchery facility under Waste Discharge License #W002037-5Q-B-R and Maine Discharge Elimination System Permit ME0001082 ("Grand Lake WDL"), issued on August 1, 2006 by the Department for the discharge of 2.9 mgd of fish rearing waste waters to Grand Lake Stream, Class A as designated under 38 M.R.S.A. § 467(13)(B)(1), in Grand Lake Stream Plantation, Maine, subject to a series of standard and special conditions. The Grand Lake WDL was modified on October 10, 2008 to revise formalin limits based on new information. The numeric limit for daily maximum concentration was raised by this modification from 13.5 mg/L to 72 mg/L, based on a treatment of no more than one hour per day. For purposes of this agreement, the October 10, 2008 numeric limit will be used as the compliance standard for all formalin violations.

54. The IF&W Grand Lake Stream State Fish Hatchery ("IF&W Grand Lake") is a state brook trout and landlocked salmon rearing facility and hatchery. IF&W Grand Lake rearing facility flow-

through, cleaning and hatchery wastewaters are discharged to Grand Lake Stream without treatment.

55. The Grand Lake WDL limits the discharge of BOD to a monthly average mass of 48 lb/day. During March 2007, IF&W Grand Lake discharged a monthly average BOD mass of 55 lb/day, in excess of its license limit and in violation of 38 M.R.S.A. § 414(5).

56. The Grand Lake WDL limits the discharge of TSS to a monthly average mass of 48 lb/day. During the following months, IF&W Grand Lake discharged TSS in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass
License Limits	48 lb/day
Mar 07	67
Oct 07	52

57. The Grand Lake WDL limits the discharge of total phosphorus to a monthly average concentration of 0.035 mg/L. During September 2006, IF&W Grand Lake discharged wastewater with a monthly average total phosphorus concentration of 0.044 mg/L, in excess of its license limit and in violation of 38 M.R.S.A. § 414(5).

58. The Grand Lake WDL limits the discharge of formalin to a daily maximum concentration of 72 mg/L for a one-hour treatment. During the following months, IF&W Grand Lake discharged formalin in excess of its license limit and in violation of 38 M.R.S.A., § 414(5) as indicated.

Month	Highest Daily Maximum Concentration	Number of Daily Maximum violations
License Limits	72 mg/L	
Nov 07	496	8
Dec 07	496	11
Jan 08	496	10
Feb 08	385	7
Nov 08	890	9
Jan 09	890	15

59. Special Condition A(1) of the Grand Lake WDL specifies one pH test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 into June 2008 violated these conditions and 38 M.R.S.A. § 414(5).

60. Special Condition F of the Grand Lake WDL required the submittal of a facility Operations & Maintenance Plan by February 1, 2007. The O&M Plan was not submitted until September 26, 2008, thereby violating this condition and 38 M.R.S.A. § 414(5).

61. Special Conditions G(1) and M of the Grand Lake WDL require that treatment equal to or better than 60-micron screening prior to discharge be provided for all waste water flows. No waste water treatment has been installed at the IF&W Grand Lake facility, in violation of these conditions and 38 M.R.S.A. § 414(5).

VI. Dry Mills Fish Hatchery – Gray, ME

62. IF&W operates its Gray hatchery facility under Waste Discharge License #W002031-5Q-B-R and Maine Discharge Elimination System Permit ME0001121 ("Gray WDL"), issued on June 6, 2006 by the Department for the discharge of 1.92 mgd of fish rearing waste waters to Hatchery Brook, Class B as designated under 38 M.R.S.A. § 467(11)(B), in Gray, Maine, subject to a series of standard and special conditions. The Gray WDL was modified on October 10, 2008 to revise formalin limits based on new information.

63. The IF&W Dry Mills Fish Hatchery ("IF&W Gray") is a state brook trout rearing facility and hatchery. IF&W Gray rearing facility flow-through, cleaning, show pool and hatchery wastewaters are conveyed to two settling ponds that are arranged in series before discharging to Hatchery Brook. Effluent monitoring is conducted on the discharge from the second pond into Hatchery Brook, and reported as outfall 005A. In addition to the rearing station and hatchery flows, the settling ponds receive runoff form the up-gradient game farm and road runoff from Weymouth and Game Farm Roads. Solids are removed from the settling ponds periodically.

64. The Gray WDL limits the discharge of BOD to a monthly average mass of 32 lb/day outfall 005A. During the following months, IF&W Gray discharged BOD in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass
License Limits	32 lb/day
Jul 06	<41
Sep 06	35
Oct 06	<42

Nov 06	<34
Jul 07	37
Aug 07	<33
Sep 07	<37
May 08	<40

65. The Gray WDL limits the discharge of TSS to a monthly average mass of 32 lb/day outfall 005A. During the following months, IF&W Gray discharged TSS in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass
License Limits	32 lb/day
Jun 06	43.4
Jul 06	60
Aug 06	57
Oct 06	<34
Nov 06	47
Dec 06	<45
Jan 07	<43
Feb 07	51
Mar 07	<66
Jul 07	<35
Aug 07	<48
Sep 07	<39
Oct 07	38
Dec 07	<41
Apr 08	<34
May 08	<47
Dec 08	36

66. The Gray WDL limits the discharge of total phosphorus to monthly average mass of 0.44 lb/day and monthly average concentration of 0.035 mg/L from outfall 005A. During the following months, IF&W Gray discharged total phosphorus in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Monthly Average Concentration
License Limits	0.44 lb/day	0.035 mg/L
Jun06	1.02	0.047
Jul 06	0.96	0.047
Aug 06	1.21	0.075
Sep 06	1.05	0.065
Jun 07	0.57	0.067
Jul 07	0.66	0.043
Aug 07	0.74	0.049
Sep 07	1.05	0.076
Jun 08		0.038
Aug 08	0.48	0.045
Sep 08	0.54	0.049
Jun 09		0.042
Jul 09		0.041
Aug 09		0.037
Sep 09		0.042

67. The Gray WDL limits the flow from outfall 005A to a monthly average of 1.92 mgd. During the following months, IF&W Gray discharged wastewater from outfall 005A with flow in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated.

Month	Monthly Average
License Limit	1.92 mgd
Jun 06	2.73
Jul 06	2.4
Aug 06	1.97
Sep 06	1.96
Oct 06	1.93
Nov 06	2.04
Dec 06	2.0
Jan 07	1.93
Feb 07	1.99
Mar 07	2.05

Apr 07	2.17
May 07	2.34
Jun 07	2.1
Apr 08	2.01
May 08	2.05

68. Special Condition A(1) of the Gray WDL specifies one pH test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 into July 2007 violated these conditions and 38 M.R.S.A. § 414(5).

69. Special Condition A, footnotes and Standard Condition C(3)(d) of the Gray WDL require sampling and testing to be completed in accordance with 40 CFR Part 136 or Department permit. Conducting pH sampling without proper equipment from August 2007 through June 2008 violated this condition and 38 M.R.S.A. § 414(5).

70. In June 2008, with the concurrence of the Department, IF&W Gray relocated its sampling point for flow to just below the show pool to exclude roadside runoff and flows from upstream of the hatchery. The settling ponds at the IF&W Gray facility were dredged of settled solids during the late summer/early fall of 2008, with completion in September.

VII. New Gloucester Fish Hatchery – New Gloucester, ME

71. IF&W operates its New Gloucester hatchery facility under Waste Discharge License #W002030-5Q-B-R and Maine Discharge Elimination System Permit ME0001040 ("New Gloucester WDL"), issued on July 5, 2006 by the Department for the discharge of 3.0 mgd of fish rearing waste waters to Eddy Brook, Class B as designated under 38 M.R.S.A. § 467(11)(B), in New Gloucester, Maine, subject to a series of standard and special conditions. The New Gloucester WDL was modified on October 10, 2008 to revise formalin limits based on new information, and was modified again on April 23, 2009 to remove the numeric limit for flow and replace it with a report requirement.

72. The IF&W New Gloucester Fish Hatchery ("IF&W New Gloucester") is a state brook trout, brown trout, rainbow trout and landlocked salmon rearing facility and hatchery. IF&W New Gloucester uses water from Eddy brook to provide flow for the rearing facility raceways. During summer low flow periods, the entire flow of Eddy Brook is diverted through the raceways. There are two series of raceways, East and West, and only the upper raceways in each series are used to rear fish. The lower, unoccupied raceways are used as sedimentation areas. Raceway flow-through waters are discharged to Eddy Brook after passing through the sedimentation raceways. Raceway cleaning and hatchery wastewaters are discharged to Eddy Brook without prior treatment. IF&W New Gloucester has a small settling pond within Eddy Brook downstream of all discharges except the raceway flow-through waters. The license requires sediment removal from any containment basin upon 20% of its volume being taken up by

sediment accumulation, or determination that sediment accumulation is causing effluent violations.

73. The New Gloucester WDL limits the discharge of BOD to a monthly average mass of 50 lb/day and a daily maximum mass of 250 lb/day from outfall 005A. During the following months, IF&W New Gloucester discharged BOD in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Highest Daily Maximum Mass
License Limits	50 lb/day	250 lb/day
Mar 07	<127	
Apr 07	<104	
May 07	<67	
Jun 07	<70	
Mar 08	117	
Apr 08	216	341
May 08	87	
Oct 08	58	
Nov 08	316	566
Dec 08	84	
Mar 09	<110	
Apr 09	<283	446

74. The New Gloucester WDL limits the discharge of TSS to a monthly average mass of 50 lb/day, a daily maximum mass of 250 lb/day, a monthly average concentration of 6 mg/L and a daily maximum concentration of 10 mg/L from outfall 005A. During the following months, IF&W New Gloucester discharged TSS in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Daily Maximum Mass	Monthly Average Concentration	Highest Daily Maximum Concentration
License Limits	50 lb/day	250 lb/day	6 mg/L	10 mg/L
Aug 06	273	678	6.5	12
Nov 06	55			
Feb 07	162	325		12
Mar 07	163	327		

Apr 07	278	423		
May 07	77			
Jun 07	<80			
Mar 08	199	311		
Apr 08	222	359		
May 08	112			
Oct 08	58			
Nov 08	726	1386		
Dec 08	84			
Mar 09	<110			
Apr 09	<274	428		
Sep 09	74			

75. The New Gloucester WDL limits the discharge of total phosphorus to monthly average mass of 0.77 lb/day and monthly average concentration of 0.035 mg/L from outfall 005A. During the following months, IF&W New Gloucester discharged total phosphorus in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Monthly Average Concentration
License Limits	0.77 lb/day	0.035 mg/L
Aug 06	2.217	0.058
Aug 08	0.857	0.039
Sep 08	1.026	
Jul 09	1.3	
Aug 09	1.5	0.04
Sep 09	0.87	0.04

76. Special Condition A(1) of the New Gloucester WDL specifies one pH test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 through July 2007 violated these conditions and 38 M.R.S.A. § 414(5).

77. Special Condition A, footnotes and Standard Condition C(3)(d) of the New Gloucester WDL require sampling and testing to be completed in accordance with 40 CFR Part 136 or Department permit. Conducting pH sampling without proper equipment from August 2007 through June 2008 violated this condition and 38 M.R.S.A. § 414(5).

78. Special Condition M of the New Gloucester WDL requires that the waste water receive treatment equal to or better than filtration with a 60-micron screen and removal of solids, and that all effluent limits shall be met. Special Condition G(1) sets the date for compliance with treatment requirements as the issuance date of the license, July 5, 2006. IF&W New Gloucester does not provide treatment equivalent to 60 micron screening with solids removal for its waste waters, in violation of this condition and 38 M.R.S.A. § 414(5).

VIII. Palermo Rearing Station – Palermo, ME

79. IF&W operates its Palermo rearing facility under Waste Discharge License #W002035-5Q-B-R and Maine Discharge Elimination System Permit ME0001074 ("Palermo WDL"), issued on February 20, 2006 by the Department for the discharge of 4.75 mgd of fish rearing waste waters to the Sheepscot River, Class B as designated under 38 M.R.S.A. § 467(17)(A)(2), in Palermo, Maine, subject to a series of standard and special conditions. The Palermo WDL was modified on October 10, 2008 to revise formalin limits based on new information.

80. The IF&W Palermo Rearing Station ("IF&W Palermo") is a state brook and brown trout rearing facility. IF&W Palermo rearing facility flow-through wastewaters are discharged to the facility's drum filter for screening prior to discharge through outfall 005A. The drum filter backwash and the raceway cleaning waters are conveyed to a clarifier where the solids are settled prior to the supernatant being conveyed to the drum filter for screening prior to discharge. The settled solids are pumped to a sludge storage tank for holding until removal for land-spreading. The supernatant from the sludge storage tank is returned to the clarifier.

81. The Palermo WDL limits the discharge of BOD to a monthly average mass of 65 lb/day from outfall 005A. During the following months, IF&W Palermo discharged BOD in excess of its license limit and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Monthly Average Concentration	Highest Daily Maximum Concentration
License Limits	65 lb/day	6 mg/L	10 mg/L
Jul 06	<70		
Dec 06	<74		
Sep 09	210	9.5	17

82. The Palermo WDL limits the discharge of TSS to a monthly average mass of 65 lb/day from discharge point source 005A. During December 2006, IF&W Palermo discharged <67 lb/day of TSS in excess of its license limit and in violation of 38 M.R.S.A. § 414(5).

83. The Palermo WDL limits the discharge of total phosphorus to an annual total mass of 197 lb/yr and a monthly average concentration of 0.035 mg/L from outfall 005A. During the following time periods, IF&W Palermo discharged total phosphorus in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Annual Total Mass	Monthly Average Concentration
License Limits	197 lb/yr	0.035 mg/L
Jul 06		0.062
Sep 06		0.037
Year 2006	279.4	
Jul 07		0.054
Sep 07		0.041
Year 2007	262	
Jul 08		0.037
Aug 08		0.051
Sep 08		0.040
Year 2008	219.6	
Jun 09		0.043
Jul 09		0.042
Aug 09		0.073
Sep 09		0.078
Year 2009*	278.7	

* - December 2009 data not included, because the year is not complete

84. Special Condition A, footnotes and Standard Condition C(3)(d) of the Palermo WDL require sampling and testing to be completed in accordance with 40 CFR Part 136 or Department permit. Conducting pH sampling without proper equipment from March 2006 through June 2008 violated this condition and 38 M.R.S.A. § 414(5).

85. Standard Condition B(1)(a) of the Palermo WDL requires the licensee to maximize the removal of pollutants, Standard Condition B(1)(b) requires the licensee to maintain all treatment equipment in good working order, Standard Condition B(2) requires the licensee to properly operate and maintain all treatment equipment and Standard Condition B(5) prohibits the bypass of waste treatment facilities. The micro-screen drum-filter was off-line for extended periods between April 2006 and June 2008. Also, wastewater has been bypassing under the emergency bypass gate at least since issuance of the license in February 2006. Failure to have the drum filter in continuous operation and failure to repair the leakage under the bypass gate violated Standard Conditions B(1)(a), B(1)(b) and B(2) and B(5)as well as 38 M.R.S.A. § 414(5).

MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE PROTECTION AND IMPROVEMENT OF WATERS EIS DOCKET NUMBER 2008-119-W	)))))	**ADMINISTRATIVE CONSENT AGREEMENT** **(38 M.R.S.A. § 347-A)**

IX. Phillips Fish Hatchery - Phillips, ME

86. IF&W operated its Phillips hatchery facility under Waste Discharge License #W002036-5Q-B-R and Maine Discharge Elimination System Permit ME0001058 ("Phillips WDL"), issued on August 1, 2006 by the Department for the discharge of 0.28 mgd of fish rearing waste waters to Meadow Brook, Class A as designated under 38 M.R.S.A. § 467(4)(G)(2)(a), in Phillips, Maine, subject to a series of standard and special conditions. The Phillips WDL was modified on October 10, 2008 to revise formalin limits based on new information.

87. The IF&W Phillips Fish Hatchery ("IF&W Phillips") is a state brook trout rearing facility and hatchery. IF&W Philips hatchery flows are directed to two settling tanks with the overflow conveyed to the rearing facility raceways. The raceway flow-through water is directed to a concrete settling basin which in turn discharges treated effluent to Meadow Brook. Rearing facility cleaning wastewaters are conveyed through a concrete ditch to the settling basin. During portions of the year, solids are removed by suction directly from raceway quiescent zones and disposed of on the surface of the land on IF&W Phillips property. Solids are removed annually from the settling basin, also by suction and land application on IF&W Phillips property.

88. The Phillips WDL limits the discharge of BOD to a daily maximum concentration of 10 mg/L from outfall 005A. During September 2007, IF&W Phillips discharged 10.2 mg/L of BOD in excess of its license limit and in violation of 38 M.R.S.A. § 414(5).

89. The Phillips WDL limits the discharge of TSS to a monthly average mass of 5 lb/day and a daily maximum mass of 30 lb/day from outfall 005A. During the following months, IF&W Phillips discharged TSS in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Highest Daily Maximum Mass
License Limits	5 lb/day	30 lb/day
Aug 06	19	34
Jun 07	5.09	

90. The Phillips WDL limits the discharge of total phosphorus to monthly average mass of 0.7 lb/day and monthly average concentration of 0.035 mg/L from outfall 005A. During the following months, IF&W Phillips discharged total phosphorus in excess of its license limits and in violation of 38 M.R.S.A. § 414(5) as indicated:

Month	Monthly Average Mass	Monthly Average Concentration
License Limits	0.07 lb/day	0.037 mg/L
Jun 07	0.109	0.039
Jul 07	0.101	0.041

91. The Phillips WDL limits the flow from outfall 005A to a monthly average of 0.36 mgd. During April 2007, IF&W Phillips discharged wastewater from outfall 005A with monthly average flow of 0.368 mgd, in excess of its license limit and in violation of 38 M.R.S.A. § 414(5).

92. Special Condition A(1) of the Phillips WDL specifies one pH test every two weeks and Special Condition A, footnote 1. Effluent Monitoring specifies the location of monitoring and requires sampling representative of all conditions of the effluent. Failure to test for pH from August 2006 into August 2007 violated these conditions and 38 M.R.S.A. § 414(5).

93. Special Condition A, footnotes and Standard Condition C(3)(d) of the Phillips WDL require sampling and testing to be completed in accordance with 40 CFR Part 136 or Department permit. Conducting pH sampling without proper equipment from September 2007 through May 2008 violated this condition and 38 M.R.S.A. § 414(5).

94. The IF&W Phillips facility was closed in May 2008.

X. General Provisions

95. On October 2, 2007, the Department issued a Notice of Violation ("NOV") to IF&W for the activities described in paragraphs 26 and 30-36, and on October 27, 2008 the Department issued nine (9) simultaneous NOVs to IF&W for the activities described in Paragraphs 5-11, 15-22, 27-29, 40-52, 55-61, 66-71, 73-78, 81-85 and 88-93 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). The parties agree that they have been adequately noticed for all respective violations herein.

96. IF&W has completed the following actions aimed at correcting violations listed in this Agreement. The equipment necessary to make measurements of pH in conformance with standard methods, including portable meters, stirring plates, stirring bars, glassware, and buffers has been purchased and all facilities have capacity to correctly complete these measurements as of June or July 2008. New 60 micron filter screens were purchased and installed during 2008 at the four facilities that use drum filters for treatment of their waste waters (Casco, Embden, Enfield and Palermo). During June 2009, site visits by IF&W staff, IF&W's consulting engineers and Department staff were made to evaluate needed improvements and develop plans for the IF&W Augusta, IF&W Embden, IF&W Enfield, IF&W Grand Lake Stream and IF&W

Palermo facilities. During August and September, 2008, preliminary or more complete plans for improvements were submitted for these five facilities, and proposed final plans were submitted on October 20, 2009 for the Grand Lake Stream, Governor Hill and Embden facilities.

97. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.

98. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.

XI. Corrective Actions

99. To resolve the violations described in Paragraphs 5-11, 15-22, 26-36, 40-52, 55-61, 66-71, 73-78, 81-85 and 88-93 of this Agreement, IF&W agrees to:

A. Pay to the *Treasurer, State of Maine* the amount of Thirty-five Thousand Nine Hundred Sixty dollars ($35,960.00) as a civil monetary penalty, the full amount of which is suspended provided that IF&W complies with paragraphs D through J, below, within the schedule dates specified therein. Should IF&W fail to comply with any of the items in paragraphs D through J, the full amount of the monetary penalty shall immediately become due and payable upon the Department's request. If IF&W complies with all provisions as detailed in paragraphs D through J, the penalty is permanently waived.

B. Immediately cease the unlicensed discharge of pollutants to waters of the State.

C. Beginning immediately, operate and maintain all equipment at the IF&W facilities that are the subject of this Agreement in order to maximize the removal of pollutants and maintain all treatment equipment in good working order.

D. Prior to December 15, 2009, at the IF&W Embden facility, remove the administrative building grey waste discharge from the line connecting the groundwater sump to the sludge storage tank, and dispose of this wastewater it in conformance with the subsurface disposal rules as set forth in: *Department of Health and Human Services – General Rules*, 10-144 CMR 241.

E. Prior to February 1, 2010, submit to the Department for review and approval, conceptual and financial plans for upgrading the wastewater treatment system at the IF&W New Gloucester facility sufficient to provide treatment equal to or better than filtration with a 60 micron screen and removal of solids.

F. Prior to May 20, 2010, at the IF&W Palermo facility, repair or rebuild the bypass gate structure at block 21 to eliminate the leakage of wastewater around or under the gate.

G. Prior to August 1, 2010, and according to plans submitted to the Department on October 20, 2009 as approved with conditions, install additional solids handling facilities at the IF&W Augusta facility. Upon completion of the solids handling facilities, commence a sampling program to comprehensively monitor the performance of the revised treatment system in regard to phosphorus removal. This monitoring program shall include total phosphorus and orthophosphate concentrations at various points upstream of the facility, within the facility and in the effluent. The results of this monitoring program shall be reported to the Department prior to October 15, 2011. After the upgraded facility has been in operation for time sufficient for Spring Brook to reach a new steady state, the Department will conduct ambient biomonitoring to assess the condition of Spring Brook. In the event that the effluent continues to violate license limits for total phosphorus or the ambient biomonitoring results show that the receiving waters fail to meet class B standards, within six (6) months of such determination by the Department, IF&W shall submit plans and a schedule for reduction of phosphorus discharges from the IF&W Augusta facility, either by installation of additional treatment or by other means.

H. Prior to September 1, 2010, and according to plans submitted to the Department on October 20, 2009 as approved with conditions, install new wastewater piping to capture all raceway cleaning and hatchery wastewater flows and convey these flows to a settling basin for treatment prior to discharge at IF&W Grand Lake Stream. The accumulated solids shall be removed periodically from the settling basin for disposal in accordance with manure handling laws and best management practices. The frequency of removal shall be determined as that necessary to prevent carry-over of settled solids to the effluent and to minimize the release of nutrients to the effluent due to the development of anaerobic or anoxic conditions.

I. Prior to December 1, 2010, install rake arms and other associated equipment as needed to improve solids handling and removal from the clarifiers at the IF&W Palermo facility. Based on evaluation of start-up, trouble-shooting and operation of the Palermo facility, develop modified plans and schedules for installation of rake arms and associated solids handling improvements at the IF&W Casco and IF&W Enfield facilities. These plans shall be submitted prior to December 1, 2011 and the modifications to the facilities shall be completed no later than September 1, 2012.

J. Prior to December 30, 2010, make changes to the waste water piping at the IF&W Enfield facility necessary to combine the waste water flows into one treatment facility and one outfall.

100. The Department and the Office of the Attorney General grant a release of their causes of action against IF&W for the specific violations listed in Paragraphs 5-11, 15-22, 26-36, 40-52, 55-61, 66-71, 73-78, 81-85 and 88-93 of this Agreement on the express condition that all actions listed in Paragraph 99 of this Agreement are completed in accordance with the express terms and

conditions of this Agreement. The release shall not become effective until all requirements of this Agreement are satisfied.

101. Non-compliance with this Agreement voids the release set forth in Paragraph 100 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.

102. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, laws, and orders including but not limited to licensing requirements.

103. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of Twenty Six (26) pages:

MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

BY:_____ DATE: 3/15/10
ROLAND D. MARTIN, COMMISSIONER

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY:_____ DATE:_____
SUSAN LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY:_____ DATE:_____
JANET M. MCCLINTOCK, ASSISTANT ATTORNEY GENERAL