

August 22, 2000

David Van Wie
Maine Department of Environmental Protection
#17 State House Station
Augusta, Maine 04333-0017

SUBJECT: Notification of Approval of Presque Isle Stream TMDLs

Dear Mr. Van Wie:

Thank you for your submittal of the Presque Isle Stream Total Maximum Daily Loads (TMDLs) for ammonia-nitrogen, biochemical oxygen demand, and total phosphorus. This waterbody is included on Maine's 1998 303(d) list as a high priority for TMDL development to address low dissolved oxygen due to excessive nutrient loading from point and nonpoint sources, and point source BOD.

The U.S. Environmental Protection Agency (EPA) hereby approves Maine's July 25, 2000 Presque Isle Stream TMDL. EPA has determined that this TMDL meets the requirements of §303(d) of the Clean Water Act (CWA), and of EPA's implementing regulations (40 CFR Part 130). Attached is a copy of our approval documentation.

We are very pleased with the quality of your TMDL submittal. Your staff have done an excellent job of developing the TMDLs for this stream. My staff and I look forward to continued cooperation with the ME DEP in exercising our shared responsibility of implementing the requirements under Section 303(d) of the CWA.

Sincerely,

Linda M. Murphy, Director
Office of Ecosystem Protection

cc: David Courtemanch, ME DEP
Paul Mitnik, ME DEP

EPA NEW ENGLAND'S TMDL REVIEW

TMDL: **Presque Isle Stream**
[WBS# 140R Class B listed 1998 for nutrients/ps, nps, <2000.]
St. John watershed in Aroostook County
Potential Tribal Interest: Aroostook Band of Micmacs, Presque Isle, ME
Towns: Presque Isle, and Mapleton, Maine

STATUS: Final

IMPAIRMENT/POLLUTANT: A one-mile segment of the Presque Isle Stream located below the Presque Isle Sewer District (PISD) outfall fails to meet minimum Class B dissolved oxygen (DO) standards due to nutrient enrichment with phosphorus being the limiting nutrient. The major causes of DO impairment are:

- attached algae attributed to excessive nutrients from point and nonpoint sources, and
- point source BOD.

TMDLs are proposed for: ammonia-nitrogen (NH₃-N), biochemical oxygen demand (BOD) and total phosphorus (TP).

BACKGROUND: The Maine Department of Environmental Protection (ME DEP) submitted to EPA New England the final Presque Isle Stream TMDLs for NH₃-N, BOD, and TP with a transmittal letter dated July 25, 2000 (received by EPA on July 26, 2000). The TMDL submittal includes the following supporting documentation:

1. *Presque Isle Stream Waste Load Allocation* (ME DEP, December 1995)
2. *Presque Isle Stream Waste Load Allocation Supplemental Report* (ME DEP April 1997 with cover letter dated May 7, 1997).
3. *Presque Isle Stream Sewer District Review of Waste Load Allocation Report* (Wright-Pierce, December 1997)
4. *Response to Presque Isle Stream Sewer District Review (Dec 97) of Waste Load Allocation Report* (ME DEP March 11, 1998).
5. Presque Isle Sewer District TMDL comment letters of June 29, 2000 and July 6, 2000.
6. ME DEP response to PISD comment letters (July 25, 2000).
7. Presque Isle Stream TMDL (final, ME DEP, July 25, 2000).

Also included in the administrative record file are the following correspondence. The following is not intended to be a complete list of all documents in the file:

- Letter of EPA review comments on the December 1995 waste load allocation report (Steve Silva, EPA to Dave Courtemanch, ME DEP, dated March 5, 1997).

October 29, 2003

- Letter of EPA review comments on the April 1997 waste load allocation report (Steve Silva, EPA, to Paul Mitnik, ME DEP, dated June 11, 1997).

The following review explains how the TMDL submission meets the statutory and regulatory requirements of TMDLs in accordance with §303(d) of the Clean Water Act, and 40 CFR §130.

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REVIEW ELEMENTS OF TMDLs

Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations at 40 C.F.R. § 130 describe the statutory and regulatory requirements for approvable TMDLs. The following information is generally necessary for EPA to determine if a submitted TMDL fulfills the legal requirements for approval under Section 303(d) and EPA regulations, and should be included in the submittal package. Use of the verb "must" below denotes information that is required to be submitted because it relates to elements of the TMDL required by the CWA and by regulation.

1. Description of Waterbody, Pollutant of Concern, Pollutant Sources and Priority Ranking

*The TMDL analytical document must identify the waterbody as it appears on the State/Tribe's 303(d) list, the pollutant of concern and the priority ranking of the waterbody. The TMDL submittal must include a description of the point and nonpoint sources of the pollutant of concern, including the magnitude and location of the sources. Where it is possible to separate natural background from nonpoint sources, a description of the natural background must be provided, including the magnitude and location of the source(s). Such information is necessary for EPA's review of the load and wasteload allocations which are required by regulation. The TMDL submittal should also contain a description of any important assumptions made in developing the TMDL, such as: (1) the assumed distribution of land use in the watershed; (2) population characteristics, wildlife resources, and other relevant information affecting the characterization of the pollutant of concern and its allocation to sources; (3) present and future growth trends, if taken into consideration in preparing the TMDL; and, (4) explanation and analytical basis for expressing the TMDL through surrogate measures, if applicable. Surrogate measures are parameters such as percent fines and turbidity for sediment impairments, or chlorophyll *a* and phosphorus loadings for excess algae.*

Presque Isle Stream is a part of the St. John River watershed in Aroostook County, the northern most county of Maine; the Stream ends in Presque Isle at the confluence with the Aroostook River. Presque Isle Stream is a high priority waterbody (TMDL preparation <2000), listed on Maine's 1998 303(d) list as non-attainment for Class B in Mapleton and Presque Isle, due to nutrients from both point and nonpoint sources.

The ME DEP water quality modeling effort includes the one-mile stretch below the Presque Isle Sanitary District (PISD) outfall and background conditions. (ME DEP, 1995 report, page 1) The PISD discharge is diluted 3.3:1 at 7Q10 flow conditions (ME DEP 7/25/00 summary TMDL, page 1). Water quality data indicate routine non-compliance of class B standards below the PISD outfall despite a well-operated plant, and minor non-compliance of class C criteria for dissolved oxygen (DO) (the higher of 5 ppm DO and 60% saturation; 1995 report, page 4).

Results of a component analysis of the water quality model prepared by ME DEP "indicate that point source discharges are responsible for about 2/3 of the impact below the PISD outfall. Nonpoint source related diurnal effects from attached algae respiration represent about 1/3 of the impact..." (ME DEP, 1995 report pages 17, 24).

ME DEP explains the analytical basis for expressing the nutrient TMDL through the surrogate measure of total phosphorus (TP). The diurnal range of dissolved oxygen (diel DO) is used to indicate the presence of bottom attached or benthic algae present in Presque Isle Stream; low levels

of chlorophyll a confirm the absence of planktonic or floating algae. Phosphorus is identified as the limiting nutrient for the stream, and “phosphorus data indicate that the PISD discharge results in raising background phosphorus [TP] levels (which were around 20-30 ppb) to an increase eight times background (greater than 200 ppb) downstream of the outfall...” (ME DEP 1995 report, page 6).

Assessment: ME DEP has adequately identified the water body, the pollutants of concern, the magnitude and location of the sources of pollution. The TMDL also includes an adequate description of important assumptions made in developing the TMDL.

2. Description of the Applicable Water Quality Standards and Numeric Water Quality Target

The TMDL submittal must include a description of the applicable State/Tribe water quality standard, including the designated use(s) of the waterbody, the applicable numeric or narrative water quality criterion, and the antidegradation policy. Such information is necessary for EPA’s review of the load and wasteload allocations which are required by regulation. A numeric water quality target for the TMDL (a quantitative value used to measure whether or not the applicable water quality standard is attained) must be identified. If the TMDL is based on a target other than a numeric water quality criterion, then a numeric expression, usually site specific, must be developed from a narrative criterion and a description of the process used to derive the target must be included in the submittal.

All three TMDLs are tied to achieving the target of Maine’s water quality criteria for dissolved oxygen. Maine’s numerical DO standard for Class B waters applies to the non-attainment segment of Presque Isle Stream and is described on page 4 of the 1995 report (higher of 7 ppm DO and 75% saturation). ME DEP also clarifies the numeric toxicity-based criteria for ammonia used for the winter ammonia effluent limit for PISD (page 2 ME DEP 7/25/2000 summary TMDL).

Assessment: Adequately addressed.

3. Loading Capacity - Linking Water Quality and Pollutant Sources

As described in EPA guidance, a TMDL identifies the loading capacity of a waterbody for a particular pollutant. EPA regulations define loading capacity as the greatest amount of loading that a water can receive without violating water quality standards (40 C.F.R. § 130.2(f)). The loadings are required to be expressed as either mass-per-time, toxicity or other appropriate measure (40 C.F.R. § 130.2(i)). The TMDL submittal must identify the waterbody’s loading capacity for the applicable pollutant and describe the rationale for the method used to establish the cause-and-effect relationship between the numeric target and the identified pollutant sources. In most instances, this method will be a water quality model. Supporting documentation for the TMDL analysis must also be contained in the submittal, including the basis for assumptions, strengths and weaknesses in the analytical process, results from water quality modeling, etc. Such information is necessary for EPA’s review of the load and wasteload allocations which are required by regulation.

In many circumstances, a critical condition must be described and related to physical conditions in the waterbody as part of the analysis of loading capacity (40 C.F.R. § 130.7(c)(1)). The critical condition can be thought of as the “worst case” scenario of environmental conditions in the waterbody in which the loading expressed in the TMDL for the pollutant of concern will continue to meet water quality standards. Critical conditions are the combination of environmental factors (e.g., flow, temperature, etc.) that results in attaining and maintaining the water quality criterion and has an acceptably low frequency of occurrence. Critical conditions are important because they describe

the factors that combine to cause a violation of water quality standards and will help in identifying the actions that may have to be undertaken to meet water quality standards.

Using a calibrated water quality model, QUAL2E, the loading capacity has been presented for the Presque Isle Stream as the TMDLs for ammonia-nitrogen (NH₃-N = 10.5 lb/day), biochemical oxygen demand (UBOD = 790 lb/day), and total phosphorus (TP = 4.9 lb/dy) at 7Q10 flow conditions (ME DEP 7/25/00 summary TMDL, page 3 TMDL table). The loading capacity has been defined for summer critical low flow conditions when algae growth is highest and high water temperatures contribute to low dissolved oxygen levels. Maine state law requires that seven day ten year low flow (7Q10) be used to compute a river's assimilative capacity. Modeling assumptions are addressed on pages 24-28 of the 1995 report.

By definition, TMDLs are equal to the sum of the wasteload allocations (WLAs), load allocations (LAs), background loads, and a margin of safety. Allowable pollutant loads for the Presque Isle Stream are presented for one point source discharge (WLA), background levels, and nonpoint source contributions (LAs) (ME DEP 6/1/00 summary report, page 3 TMDL table).

Assessment: EPA New England concludes that the loading capacity has been appropriately set at a level necessary to attain applicable water quality standards. EPA agrees that the technical approach used by Maine is reasonable and sufficient for establishing TMDLs to address dissolved oxygen impairments in Presque Isle Stream.

4. Load Allocations (LAs)

EPA regulations require that a TMDL include LAs, which identify the portion of the loading capacity allocated to existing and future nonpoint sources and to natural background (40 C.F.R. § 130.2(g)). Load allocations may range from reasonably accurate estimates to gross allotments (40 C.F.R. § 130.2(g)). Where it is possible to separate natural background from nonpoint sources, load allocations should be described separately for background and for nonpoint sources.

If the TMDL concludes that there are no nonpoint sources and/or natural background, or the TMDL recommends a zero load allocation, the LA must be expressed as zero. If the TMDL recommends a zero LA after considering all pollutant sources, there must be a discussion of the reasoning behind this decision, since a zero LA implies an allocation only to point sources will result in attainment of the applicable water quality standard, and all nonpoint and background sources will be removed.

Modeling shows that the dissolved oxygen problem is predominantly due to point source pollution. For this reason, the TMDL does not specify NPS load reductions to meet water quality standards.

The TMDL clearly presents load allocations for non-point sources of pollution in combination with natural background levels as gross allotments for ammonia, BOD, and phosphorus. ME DEP component analysis indicates that 1/3 impact on DO is caused by nonpoint source-related diurnal effects from attached algae (ME DEP 1995 report, figures 15 and 16, page 25). Given the existing data, it was not possible to separate background from anthropogenic nonpoint sources. See TMDL

review element # 8 page below for a related discussion of the recommended monitoring plan included in the TMDL which addresses a future need to clarify the cause of degraded background conditions above the PISD outfall.

Assessment: EPA New England concludes that load allocations are adequately specified in the TMDL. We agree that, given the existing data, it was not possible to separate natural background from nonpoint sources, and that future monitoring is necessary to clarify whether the degraded background conditions above PISD are natural or a result of anthropogenic pollution sources.

5. Wasteload Allocations (WLAs)

EPA regulations require that a TMDL include WLAs, which identify the portion of the loading capacity allocated to existing and future point sources (40 C.F.R. § 130.2(h)). If no point sources are present or if the TMDL recommends a zero WLA for point sources, the WLA must be expressed as zero. If the TMDL recommends a zero WLA after considering all pollutant sources, there must be a discussion of the reasoning behind this decision, since a zero WLA implies an allocation only to nonpoint sources and background will result in attainment of the applicable water quality standard, and all point sources will be removed.

In preparing the wasteload allocations, it is not necessary that each individual point source be assigned a portion of the allocation of pollutant loading capacity. When the source is a minor discharger of the pollutant of concern or if the source is contained within an aggregated general permit, an aggregated WLA can be assigned to the group of facilities. But it is necessary to allocate the loading capacity among individual point sources as necessary to meet the water quality standard.

The TMDL submittal should also discuss whether a point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur. In such cases, the State/Tribe will need to demonstrate reasonable assurance that the nonpoint source reductions will occur within a reasonable time.

Based on modeling analysis, the TMDLs clearly present the WLAs for Presque Isle Sewer District (PISD) for ammonia-nitrogen, biochemical oxygen demand (both as BOD5 and UBOD), and total phosphorus, both in terms of mass loads (lb/day) and concentrations (ppm). PISD was not given less stringent WLAs based on the assumption that any nonpoint source load reductions will occur.

Mass effluent limits recommended for PISD are based on the WLA portion of the TMDLs. Summer effluent limits for ammonia are extremely low in order to allow slightly higher BOD limits. Even with this ammonia/BOD offset, the recommended BOD effluent limits are much more stringent than the secondary treatment required for a POTW.

PISD will be the only point source discharge to the non-attainment segment of Presque Isle Stream once the Mapleton discharge is removed from the stream. The Town of Mapleton, ME, (located upstream of the non-attainment segment) was issued a state wastewater discharge license on May 12, 1999, with a compliance schedule to remove the discharge from Presque Isle Stream (license expires December 1, 2001). Since this minor discharge is expected to be removed by the end of 2001 as a direct upstream discharge, and given the small size of the discharge, ME DEP did not

include WLAs for Mapleton in the TMDL. In effect, Mapleton has been assigned a zero WLA. The interim effect of the Mapleton discharge prior to removal is considered by ME DEP to have an insignificant impact on the non-attainment segment downstream (personal communication with Paul Mitnik, 6/00).

Assessment: EPA New England concludes that the WLAs of the TMDLs are acceptable and reasonable. The TMDLs identify the PISD as the dominant source of pollutant loading to the river (2/3 of the DO non-attainment). The WLAs set pollutant loads so that water quality standards will be met. Water quality modeling predicts compliance with water quality standards once more stringent permit limits for ammonia, BOD, and phosphorus are implemented by the PISD.

6. Margin of Safety (MOS)

The statute and regulations require that a TMDL include a margin of safety to account for any lack of knowledge concerning the relationship between load and wasteload allocations and water quality (CWA § 303(d)(1)(C), 40 C.F.R. § 130.7(c)(1)). EPA guidance explains that the MOS may be implicit, i.e., incorporated into the TMDL through conservative assumptions in the analysis, or explicit, i.e., expressed in the TMDL as loadings set aside for the MOS. If the MOS is implicit, the conservative assumptions in the analysis that account for the MOS must be described. If the MOS is explicit, the loading set aside for the MOS must be identified.

The TMDLs for TP, BOD, and NH₃-N include implicit margins of safety to account for any lack of knowledge concerning the relationship between effluent limitations and water quality. A MOS is “provided by use of the design or worse-case conditions implied in the modeling assimilative capacity calculations. This includes the use of 7Q10 for low stream flow conditions, high water temperatures, and licensed point sources occurring simultaneously.” (May 7, 1997 cover letter to the April 1997 supplemental TMDL report, page 1) “This represents a condition that would occur less than 1% of the time, if at all, in a given year.” (ME DEP, April 1997 report, executive summary.)

In addition to the implicit margin of safety provided by the TMDLs, additional protection will occur as long as the wastewater treatment plant operates at less than design flow. Since the TMDLs are stated in terms of both concentration and mass, maximum loading can only occur when PISD reaches its design flow. Data Monitoring Report (DMR) flow data for the past four summers (June - September, 1996-1999) show that the average of the monthly average flow data is 65% of the facility’s design capacity of 2.3 mgd. Since the flow now experienced is usually considerably less than design flow, less ammonia, BOD, and phosphorus will be allowed to discharge with concentration limits in place than would be discharged with mass limits alone. Follow-up monitoring will be conducted to re-assess the adequacy of the TMDL prior to this plant reaching design flow. If monitoring indicates that water quality does not respond to the pollutant reduction as predicted, the TMDL will be revised accordingly.

Assessment: EPA New England concludes that the conservative design conditions and assumptions

used provide for adequate MOS in the TMDLs. Furthermore, post-implementation monitoring will be used to assess the adequacy of the TMDLs prior to the point source reaching maximum loading; this monitoring plan serves to supplement the MOS.

7. Seasonal Variation

The statute and regulations require that a TMDL be established with consideration of seasonal variations. The method chosen for including seasonal variations in the TMDL must be described (CWA § 303(d)(1)(C), 40 C.F.R. § 130.7(c)(1))

Seasonal variability was taken into account in the following ways (1997 report, page 2):

- The WLA for ammonia is calculated as a summer (July 1 - Sept. 30) load due to the seasonality of nitrogenous BOD decay (N-BOD decay is significantly reduced in the non-summer months.)
- BOD is calculated as a summer (July 1 - Sept. 30) WLA, due to the fact that dissolved oxygen depletion from BOD decay is generally an issue only when water temperatures are high. This WLA will result in lower water-quality-based effluent BOD limits in the summer and higher technology-based BOD limits in the non-summer months.
- The phosphorus (TP) WLAs are established only for the summer period (June 1 - Sept. 30) when benthic algae growth is an issue. In the non-summer months, the cooler water temperature and reduced light intensity greatly diminish algae growth to the point where it is no longer an issue.

Assessment: EPA New England concludes that seasonal variations have been adequately accounted for in the TMDLs. We agree that the summer levels set for ammonia need to be more stringent than toxicity-based winter levels because summer is the time when critical environmental conditions result in dissolved oxygen criteria being a more limiting factor than toxicity. The WLAs for ammonia, BOD, and TP are only necessary in summer and are not needed to ensure compliance with water quality standards in non-summer months when temperatures are lower, directly affecting dissolved oxygen, when light intensity is reduced, and algal growth is significantly reduced.

8. Monitoring Plan for TMDLs Developed Under the Phased Approach

EPA's 1991 document, Guidance for Water Quality-Based Decisions: The TMDL Process (EPA 440/4-91-001), recommends a monitoring plan when a TMDL is developed under the phased approach. The guidance recommends that a TMDL developed under the phased approach also should provide assurances that nonpoint source controls will achieve expected load reductions. The phased approach is appropriate when a TMDL involves both point and nonpoint sources and the point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur. EPA's guidance provides that a TMDL developed under the phased approach should include a monitoring plan that describes the additional data to be collected to determine if the load reductions required by the TMDL lead to attainment of water quality standards.

A three year monitoring plan is recommended which involves five stations on Presque Isle Stream, three stations on the North Branch to Presque Isle Stream, and one station on the Aroostook River. (1997 report, executive summary). In the event that PISD chooses to continue discharging to

Presque Isle Stream (ME DEP, 1997 report, pages 6-7; see implementation section of this document for options), the monitoring plan specifies sample station locations, parameters, timing, frequency for both ambient and effluent monitoring. ME DEP's 7/25/00 summary TMDL indicates that the monitoring plan may be reduced to four sites on Presque Isle Stream (page 2).

Given the lack of clarity surrounding the reasons for the degraded background conditions above the PISD outfall, the proposed monitoring plan will also be used to determine whether the degraded background conditions above the PISD are natural, or a result of other pollution sources. (May 7, 1997 cover letter to supplemental report, page 2, and 1997 report, page 6).

A monitoring plan is also recommended in the event that PISD opts to move their discharge to the Aroostook River. "An antidegradation review of a discharge to the Aroostook River indicates that the impact to dissolved oxygen levels there should be immeasurable when compared to current conditions (May 7, 1997 cover letter, page 1). Given a suspected problem area (a 3-mile class B segment) that includes the Caribou dam under current conditions, sampling of the Aroostook River above the Caribou dam is needed to provide information on the potential limitation of assimilative capacity on the Aroostook River.

Assessment: Adequately addressed.

9. Implementation Plans

On August 8, 1997, Bob Perciasepe (EPA Assistant Administrator for the Office of Water) issued a memorandum, "New Policies for Establishing and Implementing Total Maximum Daily Loads (TMDLs)," that directs Regions to work in partnership with States/Tribes to achieve nonpoint source load allocations established for 303(d)-listed waters impaired solely or primarily by nonpoint sources. To this end, the memorandum asks that Regions assist States/Tribes in developing implementation plans that include reasonable assurances that the nonpoint source load allocations established in TMDLs for waters impaired solely or primarily by nonpoint sources will in fact be achieved. The memorandum also includes a discussion of renewed focus on the public participation process and recognition of other relevant watershed management processes used in the TMDL process. Although implementation plans are not approved by EPA, they help establish the basis for EPA's approval of TMDLs.

ME DEP provides a discussion of the available abatement options to meet minimum water quality criteria (1997 report, pages 2-6), and provides final recommended effluent limits for PISD in the 7/25/00 summary TMDL. Given the extremely limited assimilative capacity in Presque Isle Stream, ME DEP's preferred option is relocation of PISD's outfall to the Aroostook River (1997 report, executive summary). Another acceptable option for PISD involves a TMDL for meeting class B water quality standards on Presque Isle Stream, with ambient compliance monitoring used in conjunction with reduced license limits for a five year period.

Prediction that the TMDLs will meet water quality standards is based on point source control to improve water quality in the one-mile segment of Presque Isle Stream prior to the confluence with the Aroostook River. The TMDL report identifies PISD as responsible for 2/3 of the dissolved

oxygen problem in the non-attainment segment. The reductions in NH₃-N, BOD, and TP point source loadings will be controlled through an NPDES permit issued either by EPA, or by the ME DEP, depending on the timing of the NPDES State Program approval process.

Although nonpoint sources are responsible for 1/3 of the dissolved oxygen problem, the TMDL does not rely on NPS controls to meet water quality standards in the non-attainment segment. ME DEP does recommend that future monitoring clarify the reasons for the degraded background conditions above the PISD outfall (See item 8 of this document).

Assessment: Adequately addressed.

10. Reasonable Assurances

EPA guidance calls for reasonable assurances when TMDLs are developed for waters impaired by both point and nonpoint sources. In a water impaired by both point and nonpoint sources, where a point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur, reasonable assurance that the nonpoint source reductions will happen must be explained in order for the TMDL to be approvable. This information is necessary for EPA to determine that the load and wasteload allocations will achieve water quality standards.

In a water impaired solely by nonpoint sources, reasonable assurances that load reductions will be achieved are not required in order for a TMDL to be approvable. However, for such nonpoint source-only waters, States/Tribes are strongly encouraged to provide reasonable assurances regarding achievement of load allocations in the implementation plans described in section 9, above. As described in the August 8, 1997 Perciasepe memorandum, such reasonable assurances should be included in State/Tribe implementation plans and “may be non-regulatory, regulatory, or incentive-based, consistent with applicable laws and programs.”

ME DEP points out that “the PISD is a very well operated and maintained plant and there is reasonable assurance that they can meet the specified stringent limits”(ME DEP 7/25/00 summary TMDL, page 2). PISD is not given less stringent wasteload allocations based on any assumption that nonpoint source load reductions will occur. The recommended monitoring plan will provide better information for distinguishing between natural background and upstream anthropogenic pollution sources, which will lead to a better understanding of nonpoint source pollution.

Assessment: Adequately addressed.

11. Public Participation

EPA policy is that there must be full and meaningful public participation in the TMDL development process. Each State/Tribe must, therefore, provide for public participation consistent with its own continuing planning process and public participation requirements (40 C.F.R. § 130.7(c)(1)(ii)). In guidance, EPA has explained that final TMDLs submitted to EPA for review and approval must describe the State/Tribe’s public participation process, including a summary of significant comments and the State/Tribe’s responses to those comments. When EPA establishes a TMDL, EPA regulations require EPA to publish a notice seeking public comment (40 C.F.R. § 130.7(d)(2)).

Inadequate public participation could be a basis for disapproving a TMDL; however, where EPA determines that a State/Tribe has not provided adequate public participation, EPA may defer its approval action until adequate public participation has been provided for, either by the State/Tribe or by EPA.

In 1996, ME DEP sent a copy of the 1995 draft WLA to the PISD for review, and responded to their December 1997 comments (prepared by Wright-Pierce Engineers) on March 11, 1998. On June 27, 1997, EPA provided copies of the December 1995 and the April 1997 WLA reports to the Aroostook Band of Micmacs in Presque Isle, ME, but received no indication of questions, comments, or concerns on the reports or the TMDL process. On June 6, 2000, ME DEP sent a copy of the 6/1/00 TMDL summary to PISD for review, and issued public notice via local newspaper of the availability of the TMDL for review with a 30 day comment period ending July 10, 2000. Written responses to public comment (received only from PISD) were provided in a ME DEP letter dated July 25, 2000. PISD's comment letters and ME DEP written response were provided to EPA in the final TMDL submission.

Assessment: EPA-New England concludes that ME DEP has done an adequate job of involving the public during the development of the TMDLs for Presque Isle Stream, has provided adequate opportunities for the public comment on the TMDLs, and has provided reasonable responses to the public comments.

In-house distribution:

Jennie Bridge
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