WATER QUALITY ORDINANCE

SECTION 1: TITLE.

This Ordinance shall be referred to as the Penobscot Nation Water Quality Ordinance.

SECTION 2: DEFINITIONS.

As used in this Ordinance:

(a) The term "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of any pollutant to water of the Tribe.

(b) The term "Director" means the Director of the Penobscot Nation Department of Natural Resources.

(c) The term "Department" means the Department of Natural Resources.

(d) The term "Clean Water Act" means the federal Public Law 92-500 or 33 United States Code, Sections 1251 et seq., including all amendments thereto.

(d) The term "Person" means an individual, firm, Tribal governmental entity or corporation, corporations organized under tribal or state laws, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

(e) The term "Pollutant" means treated sewage, or untreated sewage, effluent, sewage sludge, industrial, tribal, municipal, domestic, commercial or agricultural wastes of any kind.

(f) The term "waters of the Tribe" means any and all surface and subsurface waters that are contained within, flow through, or under or border upon the Penobscot Indian Territory, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the Tribe.

(g) The term "Penobscot Indian Territory" means the Penobscot Indian Territory as confirmed by Congress pursuant Title 25 United States Code § 1722(j), which incorporates the definition set forth in the Maine Act to Implement the Indian Claims Settlement, Title 30 of the Maine Revised Statutes Annotated § 6205(2).

(h) The term "Penobscot Nation Wastewater Treatment Plant" means the wastewater treatment plant locate on Indian Island, which is managed and operated by the Penobscot Nation.

SECTION 3: PURPOSE AND POLICY.

It is the official policy of the Penobscot Nation that all waters of the Tribe shall be of sufficient quality to support the ancient and historical traditional and customary uses of such tribal waters by the members of the Penobscot Nation. The responsibility for ensuring the safety of the

natural resources of the Penobscot Nation, including the waters of the Tribe, lies with the Penobscot Nation Department of Natural Resources. The purpose of this Ordinance is to empower the Department to enact such regulations, with the consent of the Penobscot Nation Chief and Tribal Council, to protect the waters of the Tribe consistent with this policy.

SECTION 4: DELEGATION OF AUTHORITY TO THE DEPARTMENT.

(a) Regulations. The Department is delegated authority to promulgate regulations, consistent with the Clean Water Act, for the regulation of pollution discharges within the waters of the Tribe, including, but not limited to, the Penobscot Nation Wastewater Treatment Plant.

(b) Issuance of Permits. The Director or such person or persons as he may designate, with the consent of the Chief and Tribal Council, is hereby delegated authority to issue permits to persons engaged in the discharge of pollutants into waters of the Tribe in accordance with regulations promulgated by the Department.

(c) Enforcement. The Director or such person or persons as he may designate, with the consent of the Chief and Tribal Council, is hereby delegated authority to enforce the terms of any permit issued to persons engaged in the discharge of pollutants into waters of the Tribe in accordance with regulations promulgated by the Department, provided however, that any final enforcement decision shall be in writing.

(d) Water Quality Standards. The Department is hereby delegated authority to promulgate water quality standards to protect the water quality of the waters of the Tribe consistent with the policy set forth in Section 3, provided however that said water quality standards shall not be below the water quality standards that the State of Maine has sought to apply within waters of the Tribe, and provided further that said water quality standards shall not be below the water quality standards applicable to the waters of the Tribe pursuant to the Clean Water Act.

SECTION 5: RIGHT OF REVIEW OF ENFORCEMENT DECISIONS.

Any person who is aggrieved by a final decision of the Director or his designee with respect to the issuance or enforcement of a permit for the discharge of pollutants into the waters of the Tribe under this Ordinance and the regulations of the Department shall be entitled to appeal that decision to the Tribal Court. Factual decisions of the Director shall not be overturned unless clearly erroneous. Legal decisions of the Director shall be subject to deference in so far as they involve interpretations of regulations promulgated by the Department. Otherwise, the Directors' decisions shall be subject to review for abuse of discretion or error of law.