



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

February 20, 2015

Mr. Daniel Bowker
Environmental Coordinator
Cherryfield Foods Inc.
30 Ridge Road, P.O. Box 128
Cherryfield, ME. 04622
e-mail: dbowker@cherryfieldfoods.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit#ME0037222
Maine Waste Discharge License (WDL) Application #W006234-5P-H-R
Final Permit

Dear Mr. Bowker:

Enclosed please find a copy of your **final** Maine WDL **renewal** which was approved by the Department of Environmental Protection. Please read this license renewal and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Clarissa Trasko, DEP/EMRO
Marelyn Vega, USEPA

Sandy Mojica, USEPA
Olga Vergara, USEPA

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AUGUSTA, MAINE 04333-0017
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PORTLAND, MAINE 04103
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PRESQUE ISLE
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

CHERRYFIELD FOODS, INC.	) MAINE POLLUTANT DISCHARGE
MILBRIDGE AND CHERRYFIELD,	) ELIMINATION SYSTEM PERMIT
WASHINGTON COUNTY, MAINE	)
SURFACE WASTEWATER DISPOSAL SYSTEM	) AND
SURFACE WATER DISCHARGE	)
ME0037222	) WASTE DISCHARGE LICENSE
W006234-5P-H-R APPROVAL	) RENEWAL

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of CHERRYFIELD FOODS, INC., (CFI/permittee/licensee hereinafter) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

CFI has submitted a timely and complete application to the Department for the renewal of Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037222/Waste Discharge License (WDL) #W006234-5P-G-R, (permit hereinafter) issued by the Department on December 28, 2009, for a five-year term. The 12/28/09 permit authorized the operation of a surface waste water (spray irrigation) system in Milbridge, Maine, to dispose of blueberry process waste waters and wash-down waste waters to ground water, Class GW-A and a daily maximum discharge of up to 0.10 million gallons per day (MGD) of non-contact cooling waters to the Narraguagus River, Class B, in Cherryfield, Maine. Treatment is achieved by screening, solid separation and three (3) storage lagoons with seasonal disposal via a 13.0-acre spray irrigation site located easterly from the processing facility. The 12/28/09 permit authorized the licensee to apply waste water to the spray irrigation field at a rate of 1.5 inches per week (~40,725 gallons per acre per week) for a total maximum of 529,425 gallons per week over the entire 13.0 acre spray irrigation area.

LICENSE SUMMARY

The permittee has not requested any modifications to the previous permitting action. This permitting action is carrying forward all the terms and conditions of the 12/28/09 permit except that this permit is;

1. Eliminating the monitoring requirements for total suspended solids, total kjeldahl nitrogen, chemical oxygen demand and specific conductance for Outfall #001 (lagoon effluent).
2. Converting the weekly application rate expressed as gal/acre/week to gal/week to provide the permittee with more flexibility to manage the spray site given the varying soil types within the 13-acre designated spray field.
3. Eliminating the monitoring requirements for total kjeldahl nitrogen and chemical oxygen demand for the four (4) ground water monitoring wells MW7A, MW7B, MW7C and MW7D.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 20, 2015, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S.A. §464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - (c) Where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

CONCLUSIONS

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

ACTION

THEREFORE, the Department APPROVES the above noted application of CHERRYFIELD FOODS, INC., to operate a surface waste water disposal system in Milbridge, Maine, to treat and dispose of process and wash-down waste waters to ground water, Class GW-A, and discharge a daily maximum of up to 0.10 MGD of non-contact cooling waters to the Narraguagus River, Class B, in Cherryfield, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits," revised July 1, 2002, copy attached.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [Maine Administrative Procedure Act, 5 M.R.S.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A) (amended August 25, 2013)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 2nd DAY OF March 2015.

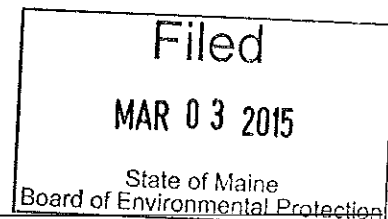
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
for PATRICIA W. AHO, Commissioner

Date of initial receipt of application: August 1, 2014

Date of application acceptance: August 14, 2014

Date filed with Board of Environmental Protection _____



This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY
ME0037222 2015 2/20/15

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to operate a surface waste water treatment and disposal system. The **STORAGE LAGOON EFFLUENT (OUTFALL #005A)** shall be limited and monitored as specified below⁽¹⁾.

	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Lagoon Freeboard [82564]	Report (feet) ⁽²⁾ [27]	1/Month [01/30]	Measure [MS]
Biochemical Oxygen Demand [00310]	Report, mg/L [19]	1/Month ⁽³⁾ [01/30]	Grab [GR]
Nitrate-Nitrogen [00620]	Report, mg/L [19]	1/Month ⁽³⁾ [01/30]	Grab [GR]
PH (Standard Units) [00400]	Report S.U. [12]	1/Month ⁽³⁾ [01/30]	Grab [GR]

The bracketed italicized numeric values in the table above and tables that follow are code numbers that the Department personnel utilize to code the monthly Discharge Monitoring Reports.

Footnotes: See pages 8-9 of this license.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

2. The permittee is authorized to operate a spray irrigation system on **SPRAY FIELD SF-1** as follows. Application of waste water to the land via the spray irrigation system shall be limited to the time period **April 15th to November 15th** of each **calendar year**. The spray-irrigation field, (SF-1) shall be limited and monitored as specified below⁽¹⁾.

Parameter	Monthly <u>Total</u> as specified	Weekly <u>Average</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Flow – Total Gallons ⁽⁴⁾ [82220]	---	529,425 gal/week ⁽⁵⁾ [8G]	1/Week [01/07]	Calculate [CA]
Flow – Total Gallons ⁽⁴⁾ [82220]	Report (Gallons) [8D]	—	1/Month [01/30]	Calculate [CA]

Footnotes: See pages 8-9 of this permit.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

3. The permittee shall monitor **GROUND WATER MONITORING WELLS**; **MW007A** (the westerly most monitoring well and down-gradient of lagoon #1), **MW007B** (is located northerly of MW007A and down-gradient of lagoon #1), **MW007C** (located easterly of lagoon #1 and westerly of lagoon #2), **MW007D** (located southerly of lagoon #2 and down-gradient of the spray field, SF-1), as specified below⁽¹⁾.

Monitoring Parameters	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Nitrate-Nitrogen [00620]	10 mg/L [19]	2/Year ⁽⁷⁾ [02/YR]	Grab [GR]
Depth to Water Level Below Landsurface [72019]	Report (feet) ⁽⁶⁾ [27]	2/Year ⁽⁷⁾ [02/YR]	Measure [MS]
Specific Conductance [00095]	Report (umhos/cm) [11]	2/Year ⁽⁷⁾ [02/YR]	Grab [GR]
Temperature [00011]	Report (Fahrenheit) [15]	2/Year ⁽⁷⁾ [02/YR]	Grab [GR]
PH (Standard Units) [00400]	Report (S.U.) [12]	2/Year ⁽⁷⁾ [02/YR]	Grab [GR]

Footnotes: See pages 8-9 of this permit.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

4. The permittee is authorized to discharge **NON-CONTACT COOLING WATER** to the Narraguagus River via **OUTFALL #002A**. Such discharges shall be limited on a year-round basis and monitored by the permittee from April – November of each year as specified below⁽¹⁾.

Effluent Characteristic	Discharge Limitations	Minimum	
		Monitoring Requirements	
	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow	0.10 MGD	1/Month	Measure
[50050]	[03]	[01/30]	[MS]
Effluent Temperature	78°F	2/Month ⁽⁸⁾	Grab
[00011]	[15]	[02/30]	[GR]

Footnotes: See pages 8-9 of this permit.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes:

1. **Sampling** – All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

Storage lagoon effluent shall be sampled (at a point in the lagoon furthest from the influent pipe or at a sampling port on the discharge pipe leading to the spray irrigation area) and shall be representative of what is actually sprayed on the fields. Any change in sampling location must be approved by the Department in writing.

2. **Storage Lagoon freeboard** shall be reported as the mathematical difference between the water level in the lagoon and the lowest elevation point in the top of the lagoon berm. It shall be measured monthly to the nearest one tenth ($1/10^{\text{th}}$) of a foot, with the minimum monthly value reported on the DMR. If site conditions prevent safe or accurate measurements, the licensee shall estimate this value and indicate this to the Department.
3. **Storage Lagoon Sampling Period** – Lagoon effluent sampling shall be conducted in the months of **April, May, August, and October** of each calendar year in accordance with approved methods for sampling, handling and preservation. The permittee is not required to test for these parameters during a month where no waste water was disposed of via the spray irrigation system.
4. **Spray Application Rate Calculation** – A field's weekly application rate is the total gallons sprayed over the applicable period of time. The permittee shall measure the flow of waste water to the spray irrigation area by the use of a flow measuring device that is checked for calibration at least once per calendar year. Weekly is defined as Sunday through Saturday.
5. **DMR Reporting** – For Discharge Monitoring Report (DMR) reporting purposes, the permittee shall report the highest weekly application rate for the month in the applicable box on the form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes:

6. **Depth to Water Level Monitoring** – Measured to the nearest one-tenth (1/10th) of a foot as referenced from the surface of the ground at the base of the monitoring well and shall be conducted in the months of **May and October** of each calendar year.
7. **Ground Water Monitoring** – Ground water sampling shall be conducted the months of **May and October** of each year. Sampling, handling and preservation shall be conducted in accordance with federally approved methods. Specific conductance (calibrated to 25.0° C), temperature, and pH are considered to be “field” parameters, and are to be measured in the field via instrumentation. The permittee is required to test for these parameters whether wastewater was disposed of via the spray-irrigation system or not.
8. **Non-Contact Cooling Water Monitoring** – Effluent temperature monitoring requirements for non-contact cooling water discharges via Outfall #002A are required only during the months of **June, July, August and September** of each year.

B. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a minimum of a **SITS II** (or higher) certificate or Registered Maine Professional Engineer pursuant to Title 32 M.R.S.A. § 4171 *et seq.* and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the permittee may engage the services of the contract operator.

C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge to discharge only: 1) in accordance with the permittee's General Application for Waste Discharge License, accepted for processing on August 14, 2014; 2) in accordance with the terms and conditions of this license; 3) to the existing spray-irrigation field [SF-1]; and 4) non-contact cooling waters to the Narraguagus River via Outfall #002A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition 11, *Bypass of Waste Treatment Facilities*, of this permit.

SPECIAL CONDITIONS

D. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the uses designated for the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated for the classification of the receiving waters.
3. The discharge shall not cause visible discoloration or turbidity in the receiving waters, which would impair the uses designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this license the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

E. NOTIFICATION REQUIREMENT

In accordance with Standard Condition #6, the permittee shall notify the Department of the following:

1. Any substantial change in the volume or character of pollutants being introduced into the treatment system. For the purposes of this section, notice regarding substantial change shall include information on:
 - a. the quality and quantity of waste water introduced to the treatment system; and
 - b. any anticipated impact caused by the change in the quantity or quality of the waste water to be introduced into the treatment system.

F. GENERAL OPERATIONAL CONSTRAINTS

1. All waste water shall receive treatment through a properly designed, operated and maintained screen and settling tank system prior to land irrigation.
2. The spray-irrigation facilities shall be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of ground water which will render it unsatisfactory for usage as a public drinking water supply.
3. The surface waste water disposal system shall not cause the lowering of the quality of the ground water, as measured in the ground water monitoring wells specified by this permit, below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to Maine law 22 M.R.S.A. § 2611. In the event that ground water monitoring results indicate lowering of the existing groundwater quality, the permittee may be required to take immediate remedial action(s), which may

SPECIAL CONDITIONS

F. GENERAL OPERATIONAL CONSTRAINTS (cont'd)

- include but not limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, ground water remediation, or ceasing operation of the system until the groundwater attains applicable standards.
4. The Department shall be notified as soon as the permittee becomes aware of any threat to public health, unlicensed discharge of waste water, or any malfunction that threatens the proper operation of the system. Notification shall be made in accordance with the attached Standard Condition #4 of this license.
 5. The permittee shall maintain a file on the location of all system components and relevant features. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells shall be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports. Each component shall be mapped and field located sufficiently to allow adequate inspections and monitoring by both the permittee and the Department.

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

1. Waste water may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff within or outside the designated boundaries of the spray fields. There shall be no significant runoff within or out of the spray irrigation area due to the spray irrigation events.
2. At least 10 inches of separation from the ground surface to the ground water table shall be present prior to each spray irrigation event.
3. No waste water shall be applied to the site following a rainfall accumulation exceeding 1.0 inches within the previous 24-hour period. **A rain gauge shall be located on site to monitor daily precipitation.** The permittee shall also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.
4. No waste water shall be applied where there is snow present on the surface of the ground.
5. No waste water shall be applied when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
6. No traffic or equipment shall be allowed in the spray-irrigation field except where installation occurs or where normal operations and maintenance are performed.
7. **Prior to the commencement of spray irrigation for the season,** the permittee shall notify the Department's compliance inspector that they have verified that site conditions are appropriate (frozen ground, soil moisture etc) for spray irrigation.

SPECIAL CONDITIONS

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

8. The permittee shall install the equivalent of one ground water level inspection well per spray field to verify that 10 inches of separation from the ground surface to the observed groundwater level is present each day prior to spraying.
9. The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities. Should significant malfunctions or leaks be detected, the permittee must shut down the malfunctioning portion of the spray system and make necessary repairs before resuming operation. The permittee shall cease irrigation if runoff is observed outside the designated boundaries of the spray field.
10. **The permittee shall maintain a daily log of all spray irrigation operations** which records the date, weather, rainfall, areas irrigated, volume sprayed (gallons), application rates (daily and weekly), and other relevant observations/comments from daily inspections. The log shall be in accordance with the general format of the "*Monthly Operations Log*" provided as **Attachment A** of this permit, or other similar format approved by the Department. Weekly application rates shall be reported in accordance with the general format of the "*Spray Application Report by Week*" provided as **Attachment B** of this license or other format as approved by the Department. The *Monthly Operations Log, and Spray Application Report by Week*, for each month shall be submitted to the Department as an attachment to the monthly Discharge Monitoring Reports (DMRs) in a format approved by the Department. Copies will also be maintained on site for Department review and for permit operation maintenance purposes.

H. VEGETATION MANAGEMENT

1. The permittee shall remove grasses and other vegetation such as shrubs and trees if necessary so as not to impair the operation of the spray-irrigation system, ensure uniform distribution of waste water over the desired application area and to optimize nutrient uptake and removal.
2. The vegetative buffer zones along the perimeter of the site shall be maintained to maximize vegetation and forest canopy density in order to minimize off-site drift of spray.

I. LAGOON MAINTENANCE

1. The integrity of the lagoons shall be inspected periodically during the operating season and properly maintained at all times. There shall be no overflow through or over the banks of the lagoons. Any signs of leaks or overflow shall be repaired or corrected immediately upon discovery.
2. **The permittee shall maintain all lagoon freeboard levels at design levels or at least two (2) feet whichever is greater.** The lagoons shall be operated in such a way as to balance the disposal of waste water via spray irrigation and to ensure that design freeboard levels are maintained.

SPECIAL CONDITIONS

I. LAGOON MAINTENANCE (cont'd)

3. The lagoons shall be cleaned of solid materials as necessary to maintain the proper operating depths that will provide best practicable treatment of the wastewater. All material removed from the lagoons shall be properly disposed of in accordance with all applicable State and Federal rules and regulations.

J. INSPECTIONS AND MAINTENANCE

The permittee shall periodically inspect all system components to ensure the facility is being operated and maintained in accordance with the design of the system. Maintenance logs shall be maintained for each major system component including pumps, pump stations, storage tanks, spray apparatus, and pipes. At a minimum, the logs shall include the unique identifier [alphabetic, numeric or alpha-numeric -see Special Condition F(5)], the date of maintenance, type of maintenance performed, names of person(s) performing the maintenance, and other relevant system observations.

K. GROUND WATER MONITORING WELLS

1. All monitoring wells shall be equipped and maintained with a cap and lock to limit access and shall be maintained in a secured state at all times. The integrity of the monitoring wells shall also be verified annually.
2. The Department reserves the right to require increasing the depth and or relocating any of the groundwater monitoring wells if the well is perennially dry or is determined not to be representative of groundwater conditions.

L. OPERATIONS AND MAINTENANCE (O & M) PLAN AND SITE PLAN(S)

This facility shall have a current written comprehensive Operation & Maintenance (O & M) Plan. The plan shall provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and the systems of treatment and control (and related appurtenances) which are installed or used by the licensee to achieve compliance with the conditions of this license.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall evaluate and modify the O& M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan shall be kept on-site at all times and made available to Department personnel upon request.

Within 90 days of completion of new and substantial upgrades of the wastewater treatment facility, the permittee shall submit the updated O&M Plan to their Department inspector for review and comment.

SPECIAL CONDITIONS

M. MONITORING AND REPORTING

Monitoring results obtained during the month (**April through November**) shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Land and Water Quality
106 Hogan Road
Bangor, Maine 04401

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the 15th day of the month following the completed reporting period. Hard Copy documentation submitted in support of the eDMR must be postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. Electronic documentation in support of the eDMR must be submitted not later than close of business on the 15th day of the month following the completed reporting period.

O. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of any required test results, results of inspections and/or reporting required by the Special Conditions of this licensing action, additional site-specific or any other pertinent information or test results obtained during the term of this licensee, the Department may, at anytime and with notice to the licensee, modify this license to require additional monitoring, inspections and/or reporting based on the new information.

P. SEVERABILITY

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

Attachment A

Monthly Operations Log

Cherryfield Foods (WDL #W006234)

(Month/Year) _____

Spray Field # _____

Weekly Application Rate: _____ gallons/week

A	B	C	D	E	F	G
Date	Precipitation Previous 24 hours (inches)	Air Temp (°F)	Weather	Wind- Direction Speed (mph)	Depth To GW in Observation well (inches)	Total Gallons Pumped (gallons)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
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22						
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24						
25						
26						
27						
28						
29						
30						
31						

Signature of Responsible Official: _____ Date _____

Attachment B

Spray Application Report by Week

Cherryfield Foods (WDL #W006234) (Month/Year) _____

Spray Field #	Weekly Limit (Gallons/Week)	Spray Application Rates (Gallons/Week)					Monthly Total
		Week 1	Week 2	Week 3	Week 4	Week 5	

Signature of Responsible Official: _____ Date _____

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

A. GENERAL PROVISIONS

1. **General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. **Other materials.** Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

(a) They are not

- (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
- (ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

3. **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

4. **Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

5. **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. **Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

11. Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

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maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
- (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
- (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
- (e) The permittee shall install flow measuring facilities of a design approved by the Department.
- (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Bypasses.

(a) Definitions.

- (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

- (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f), below. (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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D. REPORTING REQUIREMENTS

1. Reporting requirements.

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
 - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
 - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
 - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
 - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
 - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);

(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (i) Five hundred micrograms per liter (500 ug/l);
 - (ii) One milligram per liter (1 mg/l) for antimony;
 - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
 - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
- (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
 - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

3. Removed substances. Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. Connection to municipal sewer. (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

Continuous discharge means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

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Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

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

FACT SHEET

DATE: January 20, 2015

MEPDES PERMIT: ME0037222
WASTE DISCHARGE LICENSE: W006234-5P-H-R

NAME AND MAILING ADDRESS OF APPLICANT:

**CHERRYFIELD FOODS, INC.
P.O. Box 128, 320 Ridge Road
Cherryfield, ME. 04622**

COUNTY: WASHINGTON COUNTY

NAME AND ADDRESS OF FACILITY:

**CHERRYFIELD FOODS, INC.
Park Street
Cherryfield, Maine 04622**

RECEIVING WATER/ CLASSIFICATION: Narragugas River / Class SB
Ground water / Class GW-A

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**Daniel Bowker
Environmental Coordinator
(207) 546-7134
dbowker@cherryfieldfoods.com**

1. APPLICATION SUMMARY

- a. Application: Cherryfield Foods Inc. (CFI/permittee/licensee hereinafter) has submitted a timely and complete application to the Department for the renewal of Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037222/Waste Discharge License (WDL) #W006234-5P-G-R, (WDL hereinafter) issued by the Department on December 28, 2009, for a five-year term. The 12/28/09 WDL authorized the operation of a surface waste water (spray irrigation) system in Milbridge, Maine, to dispose of blueberry process waste waters and wash-down waste waters to ground water, Class GW-A and a daily maximum of up to 0.10 million gallons per day (MGD) of non-contact cooling waters to the Narraguagus River, Class B, in Cherryfield, Maine. See **Attachment A** of this Fact Sheet for a location map of the processing plant and spray irrigation site.

1. APPLICATION SUMMARY

Treatment is achieved by screening, solid separation and three (3) storage lagoons with seasonal disposal via a 13.0-acre spray irrigation site located easterly from the processing facility. The previous WDL authorized the permittee to apply waste water to the spray irrigation field at a rate of 1.5 inches per week (~40,725 gallons per acre per week) for a total maximum of 529,425 gallons per week over the entire 13.0 acre spray irrigation area).

2. PERMIT SUMMARY

- a. Terms and Conditions: The permittee has not requested any modifications to the previous permitting action. This permitting action is carrying forward all the terms and conditions of the 12/28/09 permit except that this license is;

1. Eliminating the monitoring requirements for total suspended solids, total kjeldahl nitrogen, chemical oxygen demand and specific conductance for Outfall #001 (lagoon effluent).
2. Converting the weekly application rate expressed as gal/acre/week to gal/week to provide the permittee with more flexibility to manage the spray site given the varying soil types within the 13-acre designated spray field.
3. Eliminating the monitoring requirements for total kjeldahl nitrogen and chemical oxygen demand for the four (4) ground water monitoring wells MW7A, MW7B, MW7C and MW7D.

- a. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for CFI's Cherryfield facility.

September 28, 2004– The Department issued WDL #W006234-5P-F-R to CFI for a five-year term. The 9/28/04 license superseded previous WDL #W006234-42-D-R, which was issued on August 11, 1991 for a five-year term, and WDL #W006234-42-A-N, which was issued on August 6, 1985 for a five-year term (earliest Order on file with the Department).

December 28, 2009 – The Department issued MEPDES permit MEU506234/WDL #W006234-5P-G-R to Cherryfield Foods, Inc. for a five-year term.

August 1, 2014 – CFI submitted a timely and complete application to the Department to renew MEPDES permit MEU506234/WDL #W006234-5P-G-R issued on December 28, 2009.

- c. Source Description: The CFI facility generates blueberry processing wastewater and clean-up water associated with the handling and packaging of blueberries. The facility handles processed and frozen blueberries year-round between early January and late December. The processing plant has the capacity to process up to 40,000 pounds of blueberries per day, and generates a maximum of 21,000 gallons of waste water per day. The waste water from the processing operations contains natural dissolved and suspended organic

2. PERMIT SUMMARY (cont'd)

matter and other solids. Maine Wild Blueberry Co. may transport a portion of its wastes water via tractor-trailer tankers to the CFI lagoon site for blending, processing and land application. A typical delivery of wastewater from the Maine Wild Blueberry Co. is 8,000 gallons.

A supplemental environmental project was undertaken by CFI to eliminate process wastewater discharges to the Narraguagus River in 2006. Canning process wastewater is now pumped to the lagoons in Milbridge for land application via spray irrigation.

CFI was authorized by the 12/28/09 licensing action to discharge a daily maximum of up to 0.10 MGD of non-contact cooling waters to the Narraguagus River.

- d. Wastewater Treatment: Wastewater generated through the canning operations at Cherryfield Foods, Inc. is collected in floor drains throughout the canning area of the facility and flows to a 2-foot wide by 3-foot high by 2-foot deep, 90-gallon sump pit. Waste water is then pumped to a screen within the facility vibrating room for solid separation. Once the solids are separated, the waste water is eventually transported to two (2) 10,000-gallon storage tanks. The wastes are pumped from these tanks to the lagoon site. Wastewater flow is typically discharged into Lagoon #1 and transferred via pumping to Lagoons #2 or 3 as necessary. See **Attachment B** of this fact sheet for a flow schematic of the processing facility.

There are three (3) clay-lined wastewater lagoons located at the lagoon site in Milbridge. The original lagoon was constructed in the 1990's and has a 500,000 gallon capacity. A second lagoon (with a capacity of 670,000 gallons) was constructed during the fall of 2000 to augment the existing lagoon and was installed to eliminate winter storage limitations. During the fall of 2003, a third lagoon was constructed with a capacity of 525,000 gallons. The combined capacity of all three lagoons is 1,695,000 gallons.

Wastewater is pumped from the lagoons to a land spray irrigation site comprised of 13.0 acres of land, which is divided into three sections designated as Sections A, B, and C. The spray irrigation area is characterized by stony glacial till and grey silty clay with a 3-8% slope. The glacial till areas occupy the areas of higher elevation whereas the clayey areas are typically found along lower elevations. Soils are generally well-drained within the higher elevations of the site and slightly less well-drained along the lower areas. The land spray irrigation sites are located along a gentle slope with a southerly aspect ranging between 120 and 145 feet above mean sea level containing a well distributed stand of mixed forest hardwood and softwood trees.

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of ground water, 38 M.R.S.A. § 470 states "All ground water shall be classified as not less than Class GW-A, except as otherwise provided in this section." *Standards of classification of ground water*, 38 M.R.S.A. § 465-C(1) contains the standards for the classification of ground waters. "Class GW-A shall be the highest classification and shall be of such quality that it can be used for public drinking water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair usages of these waters, other than that occurring from natural phenomena."

Classification of major river basins, 38 M.R.S.A. § 467(6-A)(2) classifies the Narraguagus River from the confluence with the West Branch of the Narraguagus River in Cherryfield to tidewater as a Class B waterbody. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(3) describes the standards for Class B waters as follows;

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; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired.

The dissolved oxygen content of Class B waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures.

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.

5. RECEIVING WATER CONDITIONS

The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report, (Report) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists all freshwaters in Category 5-C, *Waters Impaired by Atmospheric Deposition of Mercury*. Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "*Impairment caused by atmospheric deposition of mercury; a regional scale TMDL has been approved. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources.*" Pursuant to 38 M.R.S.A. § 420(1-B)(B), "*a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11.*" The Department is making a best professional judgment determination that the wastewaters have not come in contact with compounds or materials containing mercury and is therefore exempt from the establishment of interim mercury limits pursuant to 06-096 CMR 519(1)(A)(2).

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

a. Groundwater Monitoring Wells & Monitoring

During the previous permitting period four groundwater monitoring wells were monitored. The monitoring wells are sited as follows:

Monitoring Wells	PCS Code	Location
MW-007A	007A	The westernmost monitoring well located down-gradient of lagoon #1
MW-007B	007B	Located northerly of MW-007A and down-gradient of lagoon #1
MW-007C	007C	Located easterly of lagoon #1 and westerly of lagoon #2
MW-007D	007D	Located southerly and down-gradient of lagoon #2

Monitoring Parameters

Slow rate land irrigation treatment is an environmentally sound and appropriate technology for best practicable treatment and disposal of waste water. The theory behind surface waste water disposal systems is to utilize the top 10-12 inches of organic matter and in-situ soils to attenuate the pollutant loadings in the applied waste waters. The soils and vegetation within the spray field area will provide adequate filtration and absorption to preserve the integrity of the soil, and both surface and ground water quality in the area.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

The applicant shall periodically monitor the storage lagoon effluent, spray irrigation fields, ground water monitoring locations, and spray field soil conditions on site at the specified frequencies and locations as called for in Special Condition A of this permit.

- a. *Biochemical Oxygen Demand (BOD₅)* – BOD is the rate at which organisms use the oxygen in waste water while stabilizing decomposable organic matter under aerobic conditions. BOD measurements indicate the organic strength of wastes in water. The Department has established a “Report” requirement at this time for BOD while reserving the possibility to establish a numeric limit in the future based on BPT technology or other relevant factors. Monitoring for BOD yields an indication of the effectiveness of the lagoon treatment process and the condition of the waste water being applied.
- b. *pH* - pH is considered a “field” parameter meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential ground water contamination and is carried forward from the previous licensing action.
- c. *Specific Conductance* – Like pH, specific conductance is considered a “field” parameter, meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential ground water or surface water contamination and is being carried forward from the previous licensing action.
- d. *Application Rates (Weekly)* – The weekly maximum rate of 529,425 gallons per week (1.5 inches per week) is being carried forward from the previous licensing action. The weekly limit is based on the characteristics of in-situ soils.
- e. *Nitrate-nitrogen* – Nitrogen assumes different forms depending upon the oxidation-reduction conditions in the soil and ground water. The presence of a particular form of nitrogen indicates the nutrient attenuation capacity of the spray site. The Department considers the required monitoring for various forms of nitrogen in ground water and soils to provide accurate and sufficient analysis of site conditions and effects from the treatment process. The monitoring well sampling can also help identify chronic leakage from the lagoon or overloading of the spray sites. The spray area soil sampling requirement addresses the efficiency of the soils in attenuating the pollutant loading, helping to safeguard against exceeding the ability for plant uptake which would result in accumulation of excess nitrogen in the soils. Nitrogen compounds can indicate human health concerns if elevated in a drinking water supply. The 10 mg/l limit for nitrate nitrogen in monitoring wells is based on state and federal drinking water standards.
- f. *Depth to Water Level Below Land Surface* – Measuring the distance from the ground level to the ground water surface in monitoring wells will be used to monitor representative groundwater conditions.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

- g. *Temperature* – Temperature is considered a “field” parameter, meaning that it is measured directly in the field via instrumentation and does not require laboratory analysis. It is considered a surveillance level monitoring parameter that is used as an early-warning indicator of potential ground water contamination and is being carried forward from the previous licensing action.

7. HISTORIC MONITORING RESULTS

Below is a summary of the lagoon effluent and ground water monitoring test results and spray application rates for the period May 2011 – May 2014.

a. Lagoon Effluent (Outfall 005)

TSS (mg/L) (DMRs = 5)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	15 – 102	42

pH (standard units) (DMRs = 5)

Value	Limit (s.u)	Range (s.u)	Average (s.u)
Daily Maximum	Report	4.1 – 7.3	n/a

Specific conductance (umhos/cm) (DMRs = 5)

Value	Limit (umhos/cm)	Range (umhos/cm)	Avg. (umhos/cm)
Daily Maximum	Report	49 - 369	232

Nitrate-Nitrogen (mg/L) (DMRs = 5)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	ND @<0.05	ND @<0.05

Total Kjeldahl-Nitrogen (mg/L) (DMRs = 5)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	2.3 – 21	9.1

Chemical Oxygen Demand (mg/L) (DMRs = 5)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	47 – 3,757	910

b. Spray application rates

Monthly totals applied (gallons) (DMRs = 15)

Value	Limit (gal)	Range (gal)	Average (gal)
Monthly total	529,425	47,300 - 933,00	344,247

7. HISTORIC MONITORING RESULTS (cont'd)

c. Ground water

Values summarized below are mean values based on seven (7) DMRs

Parameter	TSS (mg/L)	Conductance (uhmos/cm)	Nitrate-Nitrogen (mg/L)	COD (mg/L)
Well #.	---	---	---	---
MW-7A	96	131	<0.05	---
MW-7B	2	652	<0.05	2
MW-7C	<2	91	0.1	---
MW-7D	42	898	<0.05	5

d. Non-contact cooling water Discharges to Narraguagas River- Outfall #002

1. Flow: The previous permitting action established a daily maximum discharge flow limitation of 0.10 million gallons per day (MGD) for non-contact cooling waters that is being carried forward in this license. A review of the monitoring results for the period June 2011 – September 2014 indicate results are as follows;

Flow (MGD) (DMRs = 38)

Value	Limit (MGD)	Range (MGD)	Average (MGD)
Daily Maximum	0.1	0.02 – 0.05	0.03

2. Temperature: The previous permitting action established, and this permitting action is carrying forward, a daily maximum effluent temperature limitation of 78° F for Outfall #002A along with a 2/Month monitoring requirement. Chapter 582, *Regulations Relating To Temperature*, states that no discharge shall cause the ambient temperature of any freshwater body such as a stream or river, as measured outside a mixing zone, to be raised more than 5°F. The regulation also limits a discharger to an in-stream temperature increase (ΔT) of 0.5° F above the ambient receiving water temperature when the weekly average temperature of the receiving water is greater than or equal to 66° F or when the daily maximum temperature is greater than or equal to 73° F. The temperature thresholds are based on EPA water quality criterion for the protection of brook trout and Atlantic salmon (both species indigenous to the Narraguagas River). The weekly average temperature of 66° F was derived to protect for normal growth of the brook trout and the daily maximum threshold temperature of 73° F protects for the survival of juveniles and adult Atlantic salmon during the summer months. As a point of clarification, the Department interprets the term "weekly average temperature" to mean a seven (7) day rolling average. To promote consistency, the Department also interprets the ΔT of 0.5° F as a weekly rolling average criterion when the receiving water temperature is $\geq 66^\circ$ F and $< 73^\circ$ F. When the receiving water temperature is $\geq 73^\circ$ F, compliance with the ΔT of 0.5° F is evaluated on a daily basis.

7. HISTORIC MONITORING RESULTS (cont'd)

Maine law, 38 M.R.S.A. §464(4)(D), states that the assimilative capacity of a receiving water shall be calculated utilizing a seven-day low event with a recurrence interval of ten years that is often referred to as the 7Q10. The Department has determined based on the calculations below, that at the full permitted flow rate of 0.10 MGD and 7Q10 river flow conditions, the discharge of non-contact cooling waters will not violate the requirements of 06-096 CMR 582.

Given:

7Q10 of the Narraguagus River = 31.7 cfs or 20.5 MGD

Critical temperature threshold = 66°F

Effluent flow = 0.10 MGD (obtained from wells)

Effluent temperature = 78°F

Find

Temperature increase of the receiving water at critical conditions (7Q10, maximum effluent flow and temperature).

$$\frac{(20.5 \text{ MGD})(66^\circ\text{F}) + (0.10 \text{ MGD})(78^\circ\text{F})}{20.6 \text{ MGD}} = 66.06^\circ\text{F} \text{ or } \Delta T = +0.06^\circ\text{F}$$

Temperature (°F) (DMRs = 11)

Value	Limit (°F)	Range (°F)	Average (°F)
Daily Maximum	78	62 - 86	72

8. SYSTEM CALIBRATION

Discharge rates, application rates and uniformity of application change over time as equipment gets older and components wear, or if the system is operated differently from the assumed design. Operating below design pressure greatly reduces the coverage diameter and application uniformity (resulting in increased ponding). For these reasons, the permittee should field-calibrate equipment on a regular basis to ensure proper application and uniformity, and when operating conditions are changed from the assumed design.

9. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

Based on information to date, the Department has determined the designated and existing uses of the ground water and surface waters will be maintained and protected provided the permittee complies with the terms and conditions established herein.

10. PUBLIC COMMENTS

Public notice of this application was made in the *Bangor Daily* newspaper on or about July 24, 2014. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

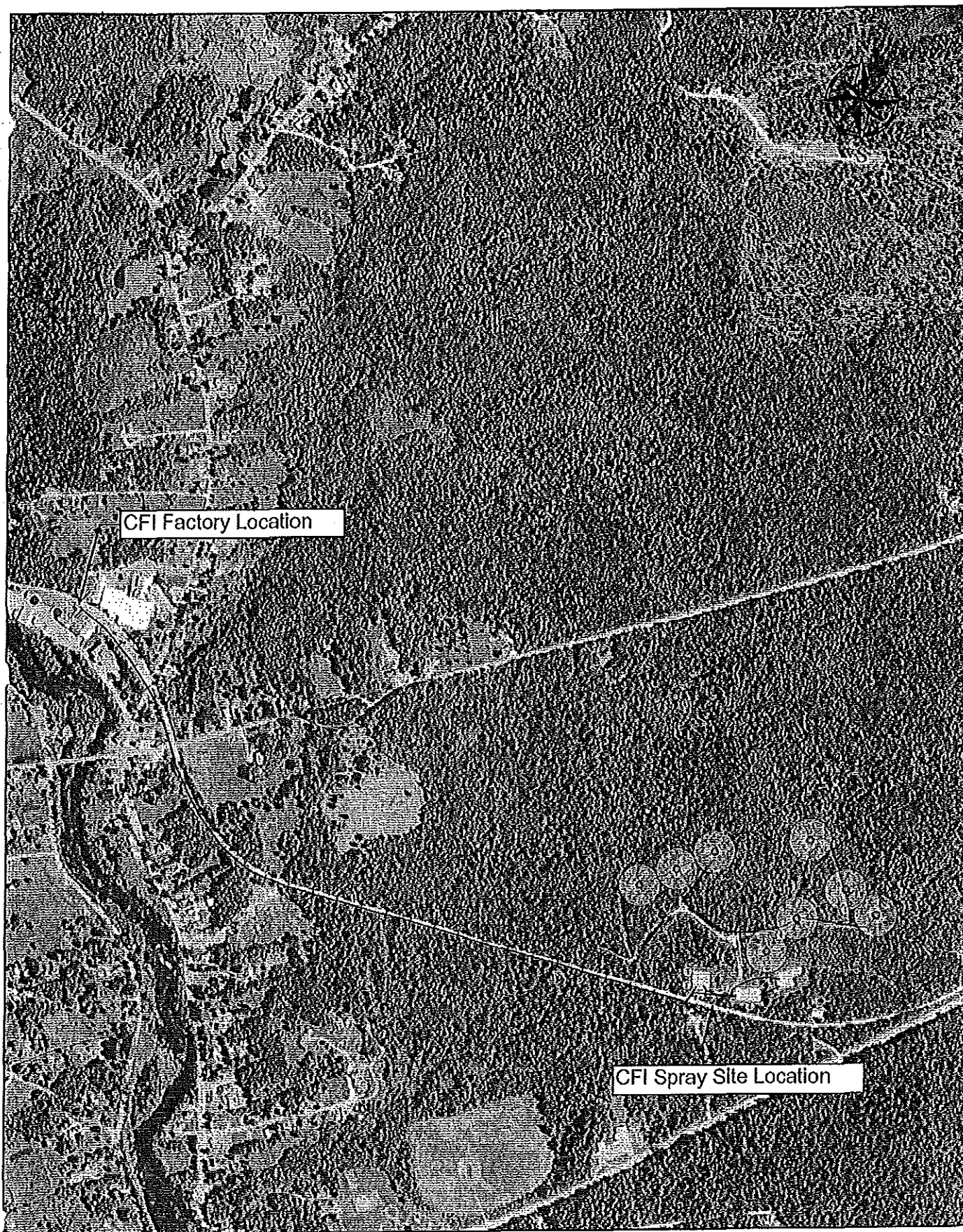
11. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7693 Fax: (207) 287-3435
e-mail: gregg.wood@maine.gov

12. RESPONSE TO COMMENTS

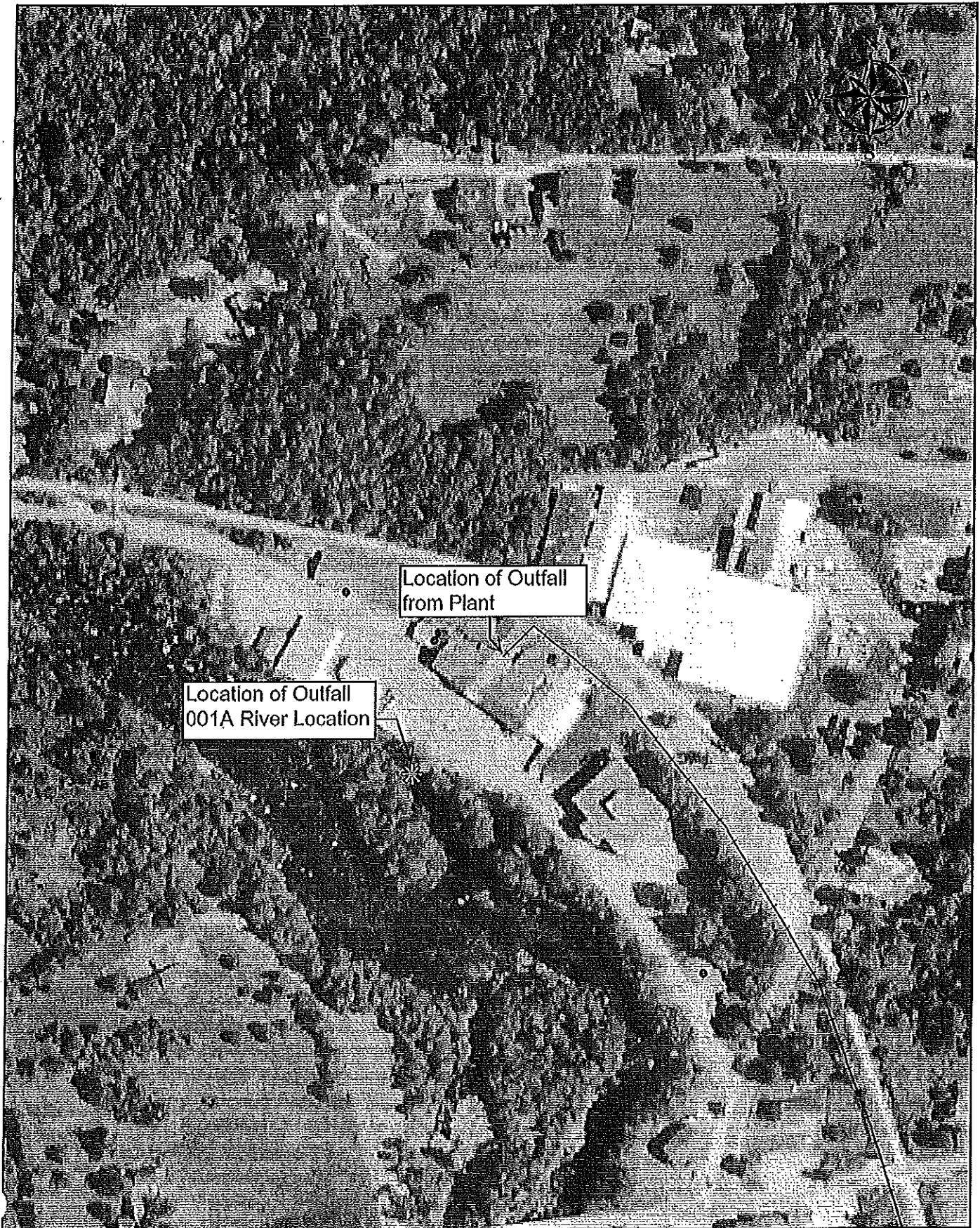
During the period of January 20, 2015, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.



1:9,600 1 Inch equals 800 feet

0 550 1,100 2,200 Feet

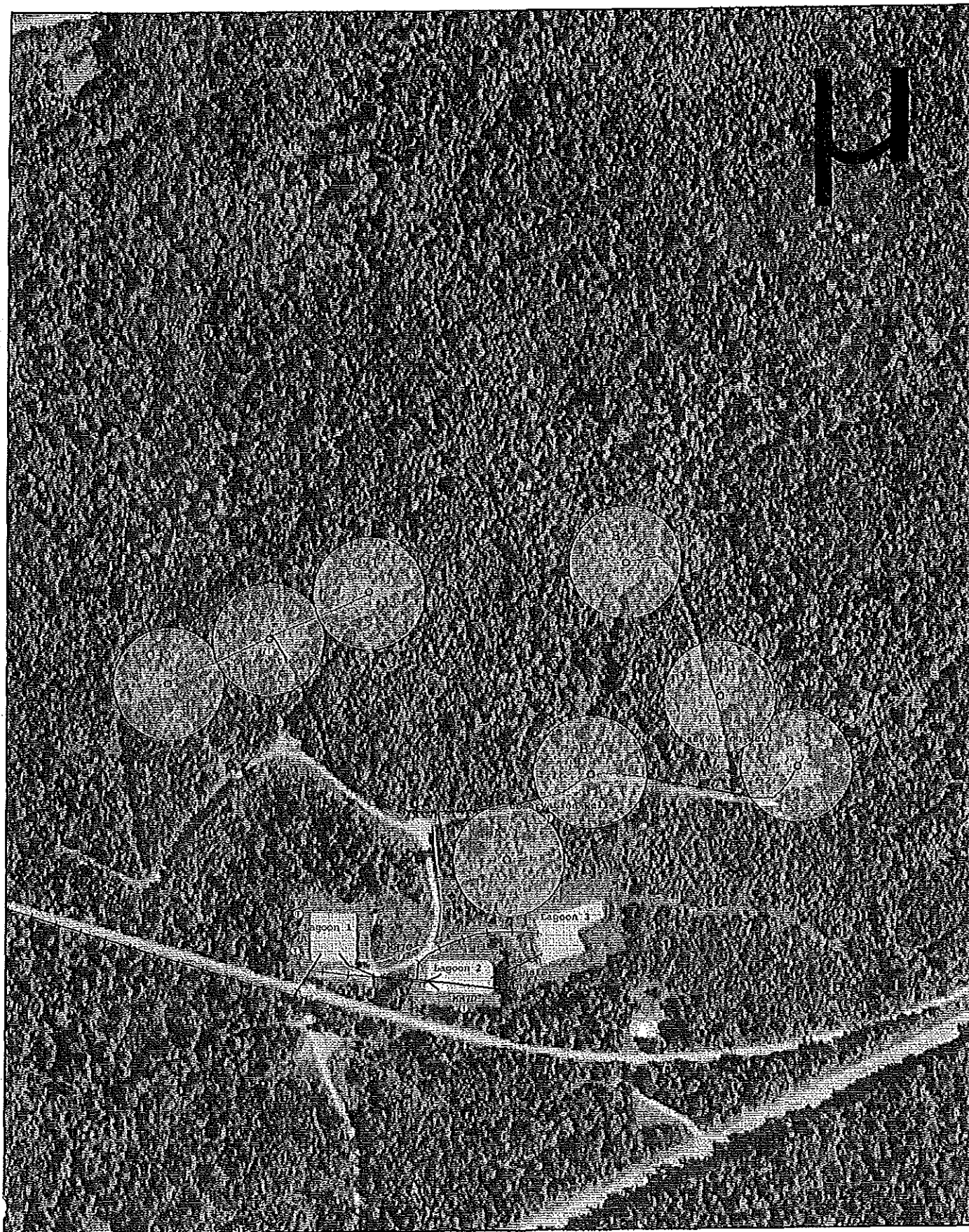
Cherryfield Foods Inc.
Spray Irrigation Site and
Factory location



1:2,400 1 inch equals 200 feet

0 135 270 540 Feet

Cherryfield Foods Inc.
Factory Outfall Location
Stillwater Road



1:3,600 1 inch equals 300 feet

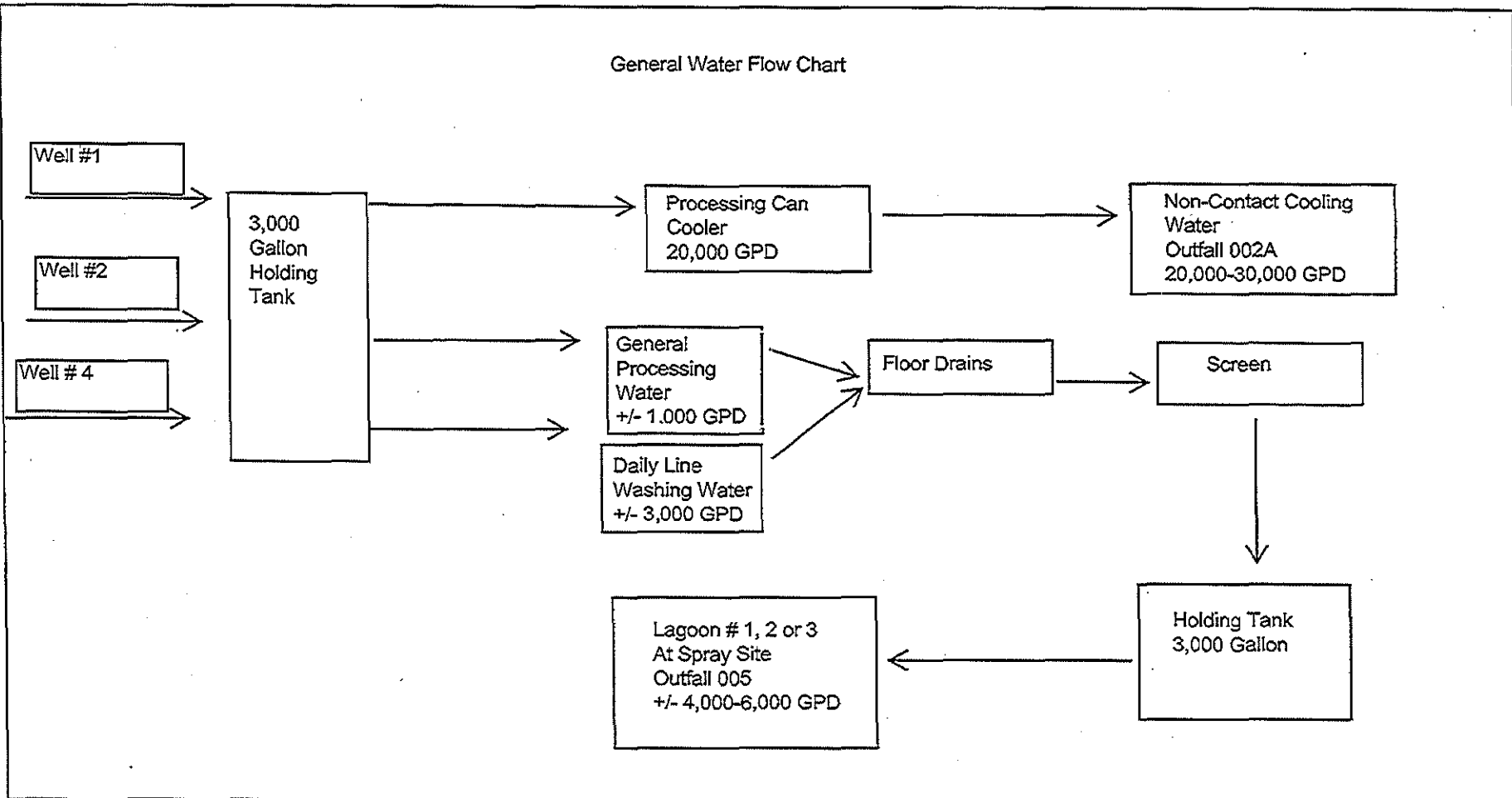
0 205 410 820 Feet

Cherryfield Foods Inc.
 Spray Irrigation Site
 ME0037222

ATTACHMENT B

Cherryfield Foods Inc.

General Water Flow Chart





DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner: (1) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

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

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by the Board's receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P. 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
