



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR

MELANIE LOYZIM  
COMMISSIONER

July 11, 2022

Daniel Bowker  
Cherryfield Foods, Inc.  
320 Ridge Road  
Cherryfield, ME 04622  
[dbowker@cherryfieldfoods.com](mailto:dbowker@cherryfieldfoods.com)

*Sent via electronic mail  
Delivery confirmation requested*

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

Dear Mr. Bowker:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL which was approved by the Department of Environmental Protection. Please read this permit and its attached conditions carefully. Compliance with this license will protect water quality.

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 207-881-9279.

Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Aaron Dumont  
Division of Water Quality Management  
Bureau of Water Quality  
[Aaron.A.Dumont@maine.gov](mailto:Aaron.A.Dumont@maine.gov)

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

Cherryfield Foods, Inc.  
July 11, 2022  
Page 2 of 2

Enc.

Pcc:

Kayleigh Burda, MEDEP  
Lori Mitchell, MEDEP  
Pam Parker, MEDEP  
Alex Rosenberg, USEPA  
Ellen Weitzler, USEPA  
Damien Houlihan, USEPA  
Nathan Chien, USEPA  
Richard Carvalho, USEPA  
Sandy Mojica, USEPA



# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

**Dated: August 2021**

**Contact: (207) 314-1458**

---

### **SUMMARY**

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) 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. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

### **I. ADMINISTRATIVE APPEALS TO THE BOARD**

#### **LEGAL REFERENCES**

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

#### **DEADLINE TO SUBMIT AN APPEAL TO THE BOARD**

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30<sup>th</sup> calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30<sup>th</sup> calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

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

Chair, Board of Environmental Protection  
c/o Board Clerk  
17 State House Station  
Augusta, ME 04333-0017  
[ruth.a.burke@maine.gov](mailto:ruth.a.burke@maine.gov)

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

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. **Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.**

#### **REQUIRED APPEAL CONTENTS**

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant 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.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

#### **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, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be 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 the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee 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 acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

## **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. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and 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. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

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 Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov), or for judicial appeals contact the court clerk's office in which the appeal will be filed.

---

**Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. 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.**

---



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

DEPARTMENT ORDER

IN THE MATTER OF

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

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

APPLICATION SUMMARY

On November 20, 2019, the Department accepted as complete for processing an application from the permittee for the renewal of Maine Pollutant Discharge Elimination System (MEPDES) permit ME0037222/Waste Discharge License (WDL) W006234-5P-H-R which was issued by the Department on March 2, 2015, for a five-year term. The 3/2/2015 permit authorized operation of a surface wastewater (spray irrigation) system in Milbridge, Maine, to dispose of blueberry process wastewater and wash-down wastewater to groundwater, Class GW-A, and a daily maximum discharge of up to 0.10 million gallons per day (MGD) of non-contact cooling water to the Narraguagus River, Class B, in Cherryfield, Maine. Treatment is achieved by screening, solids separation, and three (3) storage lagoons with seasonal disposal via a 13.0-acre spray irrigation site located east of the processing facility. The 3/2/15 permit authorized the permittee to apply wastewater 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 system to groundwater, Class GW-A.

Since the 3/2/15 renewal the Department has issued one minor revision. This minor revision was issued on August 8, 2016, to amend Footnote 2 of the MEPDES permit issued on 3/2/2015. The Department and Permittee both agreed that an additional footnote should be added to the permit to clarify reporting of freeboard for the wastewater storage lagoons. Footnote 2b clarifies this point and only requires reporting during the months of April – November of each year.

*This space intentionally left blank*

## PERMIT SUMMARY

This licensing action is carrying forward all the terms and conditions of the previous permit permitting action except that it;

1. Revises the flow parameter previously seen in Special Condition Table A.2 to Application Rate.

## CONCLUSIONS

Based on the findings summarized in the attached and incorporated Fact Sheet dated June 23, 2022 and subject to the special and standard conditions that follow, the Department makes the following

### CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S. § 464(4)(F), will be met, in that:
  - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - b. Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
  - c. Where the standards of classification of the receiving waterbody are not met, the discharge will not cause or contribute to the failure of the waterbody to meet the standards of classification;
  - d. Where the actual quality of any classified receiving waterbody exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - e. Where a discharge will result in lowering the existing water quality of any waterbody, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D).

*This space intentionally left blank*

**ACTION**

THEREFORE, the Department APPROVES the above noted application of CHERRYFIELD FOODS, INC., to operate a surface wastewater disposal system in Milbridge, Maine, to treat and dispose of process and wash-down wastewater of 529,425 gallons per week to a 13.0-acre spray irrigation system to groundwater, Class GW-A and discharge a daily maximum of 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 any 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. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended June 9, 2018)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 6 DAY OF July 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 

for MELANIE LOYZIM, Commissioner

**FILED**

**JULY 6, 2022**

**State of Maine  
Board of Environmental Protection**

Date filed with Board of Environmental Protection: \_\_\_\_\_

Date of initial receipt of application: November 13, 2019

Date of application acceptance: November 20, 2019

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to operate a surface wastewater treatment and disposal system. The **STORAGE LAGOON EFFLUENT (OUTFALL #005A)<sup>(1)</sup>** must be limited and monitored as specified below.

<b>Parameter</b>	<b>Daily <u>Maximum</u> as specified</b>	<b>Measurement <u>Frequency</u> as specified</b>	<b>Sample <u>Type</u> as specified</b>
Lagoon Freeboard <i>[82564]</i>	Report (feet) <sup>(2a)</sup> <i>[27]</i>	1/Month <sup>(2b)</sup> <i>[01/30]</i>	Measure <i>[MS]</i>
Biochemical Oxygen Demand <i>[00310]</i>	Report mg/L <i>[19]</i>	1/Month <sup>(3)</sup> <i>[01/30]</i>	Grab <i>[GR]</i>
Nitrate-Nitrogen <i>[00620]</i>	Report mg/L <i>[19]</i>	1/Month <sup>(3)</sup> <i>[01/30]</i>	Grab <i>[GR]</i>
pH <i>[00400]</i>	Report S.U. <i>[12]</i>	1/Month <sup>(3)</sup> <i>[01/30]</i>	Grab <i>[GR]</i>

The bracketed italicized numeric values in the table above and the 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 permit for applicable footnotes.

## SPECIAL CONDITIONS

### A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

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

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

The bracketed italicized numeric values in the table above and the 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 permit for applicable footnotes.

## SPECIAL CONDITIONS

### A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

3. **GROUND WATER MONITORING WELLS; MW007A** (the western most monitoring well and downgradient of lagoon #1), **MW007B** (is located northerly of MW007A and downgradient of lagoon #1), **MW007C** (located east of lagoon #1 and west of lagoon #2), **MW007D** (located south of lagoon #2 and downgradient of the spray field, SF-1), as specified below.<sup>(1)</sup>

Parameter	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 <sup>(7)</sup> [02/YR]	Grab [GR]
Depth to Water Level Below Land Surface [72019]	Report (feet) <sup>(6)</sup> [27]	2/Year <sup>(7)</sup> [02/YR]	Measure [MS]
Specific Conductance [00095]	Report (umhos/cm) [11]	2/Year <sup>(7)</sup> [02/YR]	Grab [GR]
Temperature (°F) [00011]	Report (°F) [15]	2/Year <sup>(7)</sup> [02/YR]	Grab [GR]
PH (Standard Units) [00400]	Report (S.U.) [12]	2/Year <sup>(7)</sup> [02/YR]	Grab [GR]

The bracketed italicized numeric values in the table above and the 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 permit for applicable footnotes.

**A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)**

4. The permittee is authorized to discharge **NON-CONTACT COOLING WATER** to the Narraguagus River via **OUTFALL #002A**. Such discharges must be limited and monitored by the Permittee as specified below<sup>(1)</sup>.

<b>Parameter</b>	<b>Daily <u>Maximum</u> As specified</b>	<b>Measurement <u>Frequency</u> as specified</b>	<b>Sample <u>Type</u> as specified</b>
Flow [50050]	0.10 MGD [03]	1/Month [01/30]	Measure [MS]
Effluent Temperature [00011]	78° F [15]	2/Month <sup>(8)</sup> [02/30]	Grab [GR]

The bracketed italicized numeric values in the table above and the 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 permit for applicable footnotes.

## SPECIAL CONDITIONS

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

#### **FOOTNOTES:** Special Condition A(1), A(2), A(3), & A(4)

1. **Sampling** – All storage lagoon effluent monitoring must be sampled at a point in the lagoon furthest from the influent pipe or at the sampling port on the discharge pipe leading to the spray irrigation area and must be representative of what is sprayed on the fields. Any change in sampling location must be approved by the Department in writing. All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process, including dechlorination, as to be representative of end-of-pipe effluent characteristics. The permittee must conduct sampling and analysis 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 must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a publicly owned treatment works (POTW) pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective December 19, 2018). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10 – 144 CMR 263. 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 this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the discharge monitoring report (DMR).
2. **Storage Lagoon Freeboard** – Must 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 must be measured monthly to the nearest one tenth (1/10<sup>th</sup>) of a foot, with the minimum monthly value reported on the DMR. Reporting the minimum monthly freeboard value on the DMR is only required from **April – November** of each calendar year.
3. **Storage Lagoon Sampling Period** – Lagoon effluent sampling must 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 wastewater 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 must measure the flow of wastewater 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 must 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. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)**

**FOOTNOTES:** Special Condition A(1), A(2), A(3), & A(4)

6. **Groundwater Measurement** – Measured to the nearest one-tenth ( $1/10^{\text{th}}$ ) of a foot as referenced from the surface of the ground at the base of the monitoring well and must be conducted in the months of **May and October** of each calendar year.
7. **Groundwater Monitoring** – Groundwater monitoring must be conducted during the months of **May and October**. Sampling, handling and preservation must be conducted in accordance with Special Condition A Footnote #1 of this permit. Temperature and pH are considered to be “field” parameters and are to be measured in the field via instrumentation. For purposes of this permit, specific conductivity may be measured in the laboratory (normally a field parameter) as long as Department approved methods for handling and preservation of the sample are adhered to and analysis is performed in accordance with methods approved by 40 Code of Federal Regulations (CFR) Part 136. Specific conductance sample must be temperature calibrated to 25°C.
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 **Maine Grade SITS-II** certificate or higher (or Registered Maine Professional Engineer) pursuant to Title 32 M.R.S. §4171- 4182 *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 only in accordance with: 1) the permittee’s General Application for Waste Discharge Permit, accepted for processing on November 20, 2019; 2) the terms and conditions of this permit; 3) only to the existing spray-irrigation field (SF-1); and 4) non-contact cooling waters to the Narraguagus River via Outfall #002A and from those sources as indicated in the accepted Waste Discharge Permit Application dated 11/13/2019. Discharges of wastewater from any other point source(s) are not authorized under this permit and must be reported in accordance with Standard Condition D(1)(F), *Twenty-four-hour reporting*, of this permit.

*This space intentionally left blank*

## **SPECIAL CONDITIONS**

### **D. NARRATIVE EFFLUENT LIMITATIONS**

1. The effluent must not contain a visible oil sheen, foam or floating solids at any time which would impair the use designated for the classification of the receiving waters.
2. The effluent must not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.
3. The discharge must not cause visible discoloration or turbidity in the receiving waters, which would impair the usages designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit 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 D, the permittee must notify the Department of the following:

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to the system at the time of permit issuance.
2. For the purposes of this section, notice regarding substantial change must include information on:
  - a. the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - b. any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

### **F. GENERAL OPERATIONAL CONSTRAINTS**

1. All wastewater must receive treatment through a properly designed, operated and maintained screen, settling tanks, and lagoon system prior to land irrigation.
2. The spray irrigation facilities must be effectively maintained and operated at all times so that there is neither discharge to surface waters nor any contamination of groundwater which will render it unsatisfactory for usage as a public drinking water supply.

*This space intentionally left blank*

## SPECIAL CONDITIONS

### F. GENERAL OPERATIONAL CONSTRAINTS (cont'd)

3. The surface wastewater disposal system must not cause the lowering of the quality of the groundwater, as measured in the groundwater 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 *Drinking Water Regulations*, 22 M.R.S. §2611. In the event that groundwater monitoring results indicate lowering of the existing groundwater quality, the permittee may be required to take immediate remedial action(s), which may include, but not be limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, groundwater remediation, or ceasing operation of the system until the groundwater attains applicable standards.
4. The Department must be notified as soon as the permittee becomes aware of any threat to public health, unpermitted discharge of wastewater, or any malfunction that threatens the proper operation of the system. Notification must be made in accordance with the attached Standard Condition B(2) of this permit.
5. The permittee must 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 must be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports. Each component must 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. Wastewater 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 must 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 groundwater table must be present prior to each spray irrigation event.
3. No wastewater may be spray irrigated as liquid following a rainfall accumulation exceeding 1.0 inch within the previous 24-hour period. **A rain gauge must be located on site to monitor daily precipitation.** The permittee must also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future. At the discretion of the Department Compliance Staff the applicant is allowed to use the rain gauge at its other facility two miles up the road.
4. No wastewater may be applied where there is snow present on the surface of the ground.
5. No wastewater may be applied when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.

*This space intentionally left blank*

## SPECIAL CONDITIONS

### G. SPRAY-IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS (cont'd)

6. No traffic or equipment is 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 (April 15 – November 15 of each year)**, the permittee must notify the Department's compliance inspector that they have verified that site conditions are appropriate (frozen ground, soil moisture, etc.) for spray irrigation.
8. The permittee must always maintain in good working order, and operate at maximum efficiency all wastewater 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 must cease irrigation if runoff is observed outside the designated boundaries of the spray field.
9. **The Permittee must maintain a daily log of all spray irrigation operations** which records the date, weather, rainfall, areas irrigated, volume sprayed (gallons), application rates and other relevant observations/comments from daily inspections. The log must 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 must be reported in accordance with the general format of the "*Spray Application Report by Week*" provided as **Attachment B** of this permit or other format as approved by the Department. The *Monthly Operations Log, and Spray Application Report by Week*, for each month must 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 operation maintenance purposes.

### H. VEGETATION MANAGEMENT

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

## **SPECIAL CONDITIONS**

### **I. LAGOON MAINTENANCE**

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

### **J. INSPECTIONS AND MAINTENANCE**

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

### **K. GROUNDWATER MONITORING**

All monitoring wells must be equipped and maintained with a cap and lock to limit access and must be maintained in a secured state at all times. The integrity of the monitoring wells must also be verified annually by checking for the following: access and visibility, condition of locks and protective caps, presence of cracks, subsurface bentonite seal condition (unusual water quality, i.e., turbidity), condition of well screens and filter packs (changes in well performance, i.e., drop in yield), and evidence of vandalism or frost heaving. 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 to not provide data representative of groundwater conditions.

## **SPECIAL CONDITIONS**

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

This facility must have a current written comprehensive O&M Plan. The plan must provide a systematic approach by which the permittee must 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 permittee to achieve compliance with the conditions of this permit. Of particular importance is the management of the spray application sites such that the spray sites are given ample periods of rest to prevent over application.

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

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

### **M. MONITORING AND REPORTING**

#### Electronic Reporting

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

Electronic Discharge Monitoring Reports (DMRs) submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and
2. Submitted no later than **midnight on the 15<sup>th</sup> day of the month** following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Toxics reporting must be done using the DEP toxsheet reporting form. An electronic copy of the Toxsheet reporting document must be submitted to your Department compliance inspector as an attachment to an email. In addition, a hardcopy form of this sheet must be signed and submitted to your compliance inspector, or a copy attached to your NetDMR submittal will suffice.

Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15<sup>th</sup> day of the month following the completed reporting period.

**SPECIAL CONDITIONS**

**M. MONITORING AND REPORTING (cont'd)**

A signed copy of the DMR and all other reports required herein must be submitted to the Department assigned compliance inspector (unless otherwise specified) following address:

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

**N. REOPENING OF PERMIT FOR MODIFICATION**

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this licensing action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

**O. SEVERABILITY**

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

CONTENTS

SECTION	TOPIC	PAGE
A	GENERAL PROVISIONS	
1	General compliance	2
2	Other materials	2
3	Duty to Comply	2
4	Duty to provide information	2
5	Permit actions	2
6	Reopener clause	2
7	Oil and hazardous substances	2
8	Property rights	3
9	Confidentiality	3
10	Duty to reapply	3
11	Other laws	3
12	Inspection and entry	3
B	OPERATION AND MAINTENANCE OF FACILITIES	
1	General facility requirements	3
2	Proper operation and maintenance	4
3	Need to halt reduce not a defense	4
4	Duty to mitigate	4
5	Bypasses	4
6	Upsets	5
C	MONITORING AND RECORDS	
1	General requirements	6
2	Representative sampling	6
3	Monitoring and records	6
D	REPORTING REQUIREMENTS	
1	Reporting requirements	7
2	Signatory requirement	8
3	Availability of reports	8
4	Existing manufacturing, commercial, mining, and silvicultural dischargers	8
5	Publicly owned treatment works	9
E	OTHER PROVISIONS	
1	Emergency action - power failure	9
2	Spill prevention	10
3	Removed substances	10
4	Connection to municipal sewer	10
F	DEFINTIONS	10

# 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

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

- 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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

- (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.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

### 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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

**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

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

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).

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

- (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.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

**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

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

**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.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

---

**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 WASTE DISCHARGE PERMIT

## FACT SHEET

DATE: **June 23, 2022**

PERMIT NUMBER: **ME0037222**  
WASTE DISCHARGE LICENSE: **W006234-5P-J-R**

NAME AND ADDRESS OF APPLICANT:

**CHERRYFIELD FOODS, INC.  
320 RIDGE ROAD  
CHERRYFIELD, ME 04622**

COUNTY: **WASHINGTON COUNTY**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

**CHERRYFIELD FOODS, INC.  
36 STILLWATER ROAD  
CHERRYFIELD, ME 04622**

RECEIVING WATER CLASSIFICATION: **Narraguagas River/Class SB  
Groundwater/Class GW-A**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**DANIEL BOWKER  
ENVIRONMENTAL COORDINATOR  
(207) 546-1780  
[dbowker@cherryfieldfoods.com](mailto:dbowker@cherryfieldfoods.com)**

## **1. APPLICATION SUMMARY**

On November 20, 2019, the Department of Environmental Protection (Department) accepted as complete for processing an application from the CHERRYFIELD FOODS, INC. (CHERRYFIELD FOODS, INC/CFI/permittee) for the renewal of Maine Pollutant Discharge Elimination System (MEPDES) permit ME0037222/Waste Discharge License (WDL) W006234-5P-H-R which was issued by the Department on March 2, 2015, for a five-year term. The 3/2/2015 permit authorized operation of a surface wastewater (spray irrigation) system in Milbridge, Maine, to dispose of blueberry process wastewater and wash-down wastewater to groundwater, 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, solids separation, and three (3) storage lagoons with seasonal disposal via a 13.0-acre spray irrigation site located east of the processing facility.

## 1. APPLICATION SUMMARY (cont'd)

The 3/2/15 permit authorized the permittee to apply wastewater 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 system to groundwater, Class GW-A.

Since the 3/2/15 renewal the Department has issued one minor revision. This minor revision was issued on August 8, 2016, to amend Footnote 2 of the MEPDES permit issued on 3/2/2015. The Department and Permittee both agreed that an additional footnote should be added to the permit to clarify reporting of freeboard for the wastewater storage lagoons. Footnote 2b clarifies this point and only requires reporting during the months of April – November of each year.

## 2. PERMIT SUMMARY

- a. Terms and Conditions: This licensing action is carrying forward all the terms and conditions of the previous permit permitting action except that it;
  1. Revises the flow parameter previously seen in Special Condition Table A.2 to Application Rate.
- b. History: This section provides a summary of significant licensing actions and milestones that have been completed for the permittee.

*August 6, 1985* – The Department issued WDL #W006234-42-A-N which was issued for a five-year term.

*August 11, 1991* – The Department issued WDL #W006234-42-D-R, which was issued on for a five-year term.

*September 28, 2004* – The Department issued WDL #W006234-5P-F-R to CFI for a five-year term.

*December 28, 2009* – The Department issued Combined MEPDES ME0037222/WDL W006234-5P-G-R to Cherryfield Foods, Inc. for a five-year term.

*March 2, 2015* – The Department issued combined MEPDES ME0037222/WDL #W006234-5P-H-R to Cherryfield Foods, Inc. for a five-year term.

*January 19, 2017* – The Department issued a modification to combined MEPDES ME0037222/WDL W006234-5P-H-R to clarify that measuring freeboard in the wastewater lagoon was only required during the months of April – November of each year. Footnote #2b was added to the permit to clarify this timeframe to clarify lagoon monitoring language in the 3/2/2015 WDL.

*November 20, 2019* – The permittee submitted a timely and complete general application to the Department for renewal of the March 2, 2015 combination MEPDES/WDL. The application was accepted for processing on November 20, 2019 and was assigned WDL #W006234-5P-J-R.

## 2. PERMIT SUMMARY (cont'd)

- 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 wastewater per day. The wastewater from the processing operations contains natural dissolved and suspended organic matter and other solids. Maine Wild Blueberry Co. may transport a portion of its wastewater 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.

In 2006 a supplemental environmental project was undertaken by CFI to eliminate process wastewater discharges to the Narraguagus River. As a result of this project 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 permitting 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. The wastewater is then pumped to a screen within the facility vibrating room for solid separation. Once the solids are separated, the wastewater 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.

At present Lagoon #3 is not in use for the treatment of process water. Cherryfield Foods, Inc. has made provisions and procedures outline in the O&M to allow the Lagoon #3 to remain free of stormwater by installing a drainpipe with a ball valve. Should the time come when Cherryfield Foods, Inc. needs the additional capacity due to increased production or for maintenance activities, the lagoon will be brought into operation by following the procedures developed and outline in the O&M Manual. This includes notifying the Department's Compliance staff prior to startup to ensure the lagoon is in good working order and meets original design specifications.

## 2. PERMIT SUMMARY (cont'd)

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. § 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 applicable state law, and ensure that the receiving waters attain the State water quality standards as described in Maine's Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S. § 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 (amended February 16, 2020), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

## 4. RECEIVING WATER QUALITY STANDARDS

*Classification of Ground Waters*, 38 M.R.S. § 470 classifies the groundwater at the point of discharge as Class GW-A receiving water. *Standards of Classification of Ground Water*, 38 M.R.S., Section 465-C(1), describes the standards for water classified as Class GW-A as the highest classification of groundwater, which must be of such quality that it can be used for public water supplies. These waters must be free of radioactive matter or any matter that imparts color, turbidity, or odor which would impair use of these waters, other than that occurring from natural phenomena.

*Classification of major river basins*, 38 M.R.S. § 467(6-A)(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. § 465(3) describes the standards for Class B waters.

The Department has no information that the discharge from the permittee, as conditioned, causes or contributes to non-attainment of applicable Class B/Class GW-A water quality standards.

## 5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2016 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 the Narraguagus River in Cherryfield as, “Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury.” Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, “All freshwaters are listed in Category 4A (Total Maximum Daily Load (TMDL) Completed) due to the USEPA approval of a Regional Mercury TMDL. 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 Health and 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. § 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.”

## 6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

### Groundwater Monitoring

During the previous permitting period, all groundwater monitoring wells were monitored. The monitoring wells are:

Monitoring Wells	DMR Designation	Location
MW-007A	007A	Western most monitoring well, downgradient of Lagoon #1.
MW-007B	007B	North of MW-007A and downgradient of Lagoon #1.
MW-007C	007C	East of Lagoon #1 and west of Lagoon #2.
MW-007D	007D	Located to the south and downgradient of Lagoon #2.

### Monitoring Parameters

Slow rate land irrigation treatment is an environmentally sound and appropriate technology for best practicable treatment and disposal of wastewater. The theory behind surface wastewater 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 wastewater. 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 groundwater quality in the area.

The applicant must periodically monitor the spray irrigation field and the groundwater monitoring locations at the specified frequencies and locations as called for in Special Condition A of this permit.

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

- a. Biochemical Oxygen Demand (BOD<sub>5</sub>) – BOD is the rate at which organisms use the oxygen in wastewater 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 wastewater 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. Insecticides, Fungicides, Herbicides (collectively referred to as pesticides) – Farmers may utilize insecticides such as (phosmet), fungicides (chlorothalonil, propiconazole), and other pesticides on the crop at various times during berry producing years. Based on the varying persistence of these and other pesticides in water and soil, the Maine Board of Pesticide Control has recommended that it may be necessary to monitor pesticides in storage tank/lagoon effluent, groundwater monitoring locations, and spray irrigation site soils.

Because farmers are regularly changing pesticides, this permit is requiring the permittee to report to the December 31st a list of pesticides used during the previous season. Between January 1<sup>st</sup> and May 31<sup>st</sup>, following the use of Propiconazole or Methoxyfenozide during the previous season, the permittee must sample for these parameters in one groundwater monitoring well that is downgradient of the wastewater storage lagoon(s) at a frequency of once in a 5-year permit cycle. Propiconazole will be sampled and analyzed via USEPA Environmental Chemistry Method (ECM) MRID 48697002 for water samples. Methoxyfenozide will be sampled and analyzed via USEPA ECM MRID 49525703 for water samples. Alternatives to the stated methodology or use of a laboratory that is not certified by the State of Maine’s Department of Health and Human Services must be approved by the Department. The permittee must report sample results to the Department by June 15th, as an attachment to the May Discharge Monitoring Report (DMR). The Department, in conjunction with the Maine Department of Agriculture’s Board of Pesticide Control, or other State and/or federal agency/organization with expertise in pesticides will evaluate the information submitted and determine if further testing is necessary.

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

- f. Application Rates (Weekly) – The weekly maximum rate of 676,035 gallons per week (1.66 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 groundwater. 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. The permittee must periodically monitor the lagoon effluent, spray irrigation fields, and groundwater monitoring locations on site at the specified frequencies and locations as called for in Special Condition A of this permit.

- f. Depth to Water Level Below Land Surface – Measuring the distance from the ground level to the groundwater surface in monitoring well will be used to monitor representative groundwater conditions.
- 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 groundwater contamination and is being carried forward from the previous licensing action.

## 7. MONITORING AND MONITORING RESULTS

Below is a summary of the lagoon effluent and groundwater monitoring test results and spray application rates for the period March 2015 – April 2021

### a. Lagoon Effluent (Outfall 005)

#### Lagoon Freeboard

Value	Level (Feet)	Range (Feet)	Average (Feet)
Minimum	Report	2.50 – 6.0	3.94

#### Biochemical Oxygen Demand (mg/L) (DMRs = 14)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	4.00 – 4,100	725

#### pH standard units (DMR = 10)

Value	Limit (s.u)	Range (s.u)
Daily Maximum	Report	4.0 – 6.8

#### Nitrate-Nitrogen mg/L (DMR = 10)

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

### b. Spray application rates Spray Field 1A

#### Weekly Max Rate gal/week (DMR = 38)

Value	Limit (gal/week)	Range (gal/week)	Average (gal/acre)
Monthly Total	529,425	14,457 – 722,200	322,935

### c. Groundwater

A summary of groundwater monitoring well results for the monitoring period of March 2015 – April 2021 is as follows:

Monitoring Wells	DMR Designation	Location
MW-007A	007A	Western most monitoring well, downgradient of Lagoon #1.
MW-007B	007B	North of MW-007A and downgradient of Lagoon #1.
MW-007C	007C	East of Lagoon #1 and west of Lagoon #2.
MW-007D	007D	Located to the south and downgradient of Lagoon #2.

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

Nitrate-Nitrogen (mg/L)			
Wells	Range	Average	DMRs
MW-007A	0.05–0.05	0.05	2
MW-007B	0.05–0.05	0.05	11
MW-007C	0.05–0.05	0.05	9
MW-007D	0.05–0.05	0.05	11

This licensing action is carrying forward the daily maximum concentration limit of 10 mg/L for groundwater monitoring wells and the minimum monitoring frequency requirement of twice per year during the months of April – November. Results reported as “less than” (<) were considered present at the detection limits for calculation purposes. This licensing action is carrying forward the monitoring requirements for Nitrate-Nitrogen from the previous permitting action.

Depth to Water Level Below Landsurface (ft.)			
Wells	Range	Average	DMRs
MW-007A	1.3–2.7	2.30	11
MW-007B	4.3–7.6	5.74	11
MW-007C	5.9–15.5	10.1	11
MW-007D	0.5–6.7	3.0	11

This licensing action is carrying forward the monitoring requirements for Depth to Water Level Below Land surface from the previous permitting action.

Specific Conductance (umhos/cm)			
Wells	Range	Average	DMRs
MW-007A	70–80	75	2
MW-007B	133–580	410.5	11
MW-007C	48–147	87	9
MW-007D	586–1,180	837	11

*This space intentionally left blank*

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

This licensing action is carrying forward the monitoring requirements for specific conductance from the previous permitting action.

Temperature (°F)			
Wells	Range	Average	DMRs
MW-007A	42.60–51.80	47.87	10
MW-007B	43.90–52.90	48.95	11
MW-007C	43.90–51.30	47.09	11
MW-007D	40.50–51.30	47.9	11

This licensing action is carrying forward the monitoring requirements for temperature from the previous permitting action.

pH Range (SU)		
Wells	Range	DMRs
MW-007A	4.9–6.32	10
MW-007B	5.89–7.05	11
MW-007C	2.50–14.0	11
MW-007D	3.60–170	11

This licensing action is carrying forward the monitoring requirements for pH from the previous licensing action.

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

1. Flow: The previous licensing 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 permit. A review of the monitoring results for the period March 2015–August 2020 indicate results are as follows;

#### Flow MGD (DMRs = 31)

Value	Limit (MGD)	Range (MGD)	Average (MGD)
Daily Maximum	0.10	0.01 – 0.03	0.027

*This space intentionally left blank*

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

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. *Regulations Relating To Temperature*, 06-096 CMR 582 limits thermal discharges to an in-stream temperature increase ( $\Delta T$ ) 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 USEPA water quality criteria for the protection of brook trout and Atlantic salmon. 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. The Department interprets the term "weekly average temperature" to mean a seven (7) day rolling average. To promote consistency, the Department also interprets the  $\Delta T$  of 0.5°F as a weekly rolling average (chronic) criterion when the receiving water temperature is  $\geq 66^\circ\text{F}$  and  $< 73^\circ\text{F}$  and interprets the  $\Delta T$  of 0.5°F as a daily maximum (acute) criterion when the receiving water temperature is  $\geq 73^\circ\text{F}$ .

*Classification of Maine waters*, 38 M.R.S. §464(4)(D), states that the assimilative capacity of a receiving water must 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 Narraguagas 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	68 – 76	74

## **7. 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 their equipment on a regular basis to ensure proper application and uniformity, and when operating conditions are changed from the assumed design.

## **8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY**

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody to meet standards for Class B classification or the groundwater to meet Class GW-A classification.

## **9. PUBLIC COMMENTS**

Public notice of this application was made in *Machias Valley News Observer* newspaper on or about November 6, 2019. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## **10. DEPARTMENT CONTACTS**

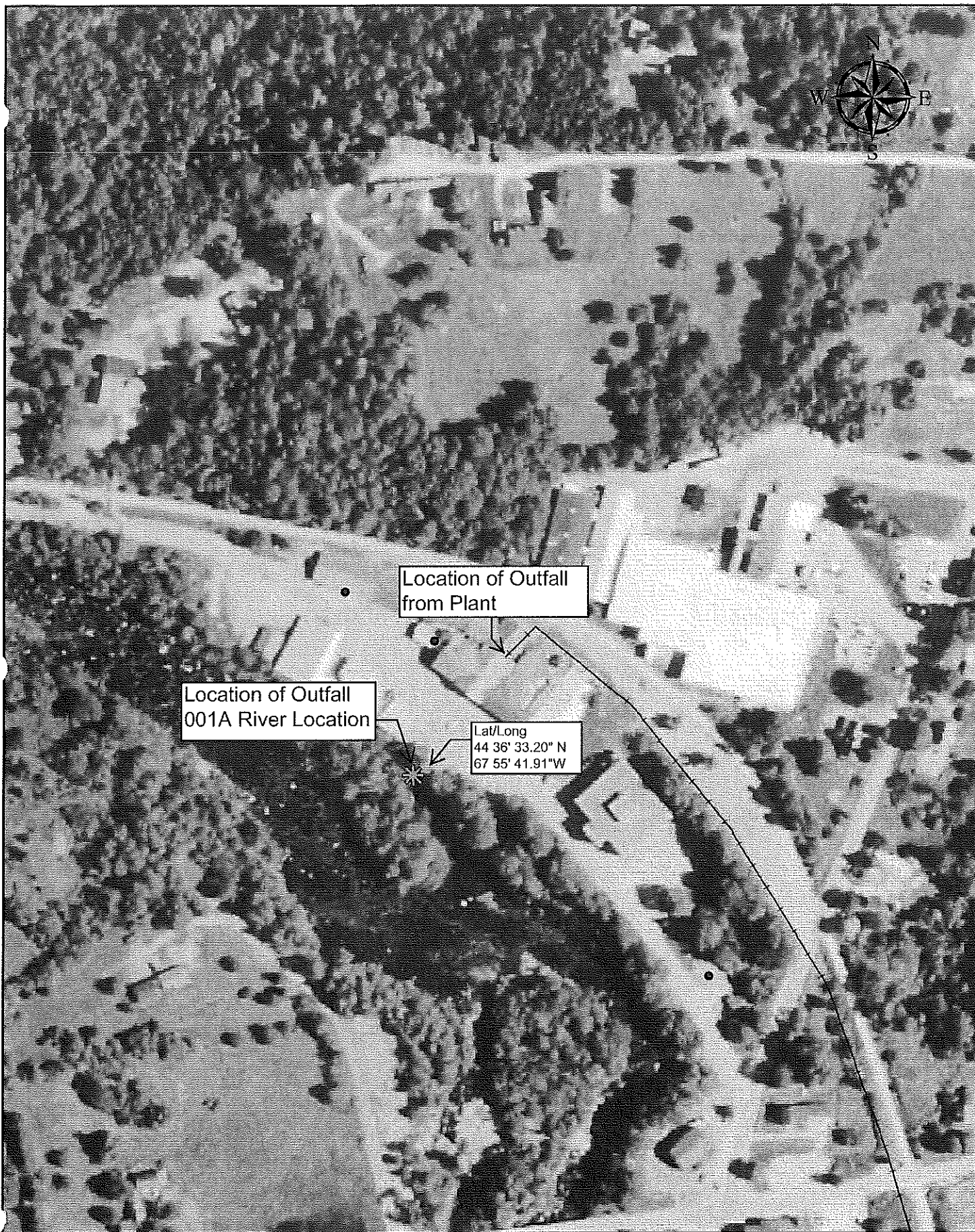
Additional information concerning this licensing action may be obtained from, and written comments sent to:

Aaron Dumont  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207)-881-9279  
e-mail: [Aaron.A.Dumont@maine.gov](mailto:Aaron.A.Dumont@maine.gov)

## **11. RESPONSE TO COMMENTS**

During the period of May 11, 2022, through the effective date of this final agency action, the Department solicited comments on the draft permit. The Department did not receive any comments on the draft that resulted in substantive changes to the permit proper. It is noted that minor typographical and grammatical errors were not summarized in this section, but were corrected, where necessary in the final permit.

# **ATTACHMENT A**



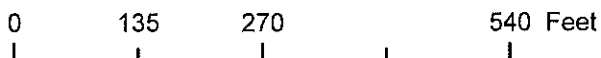
Location of Outfall  
from Plant

Location of Outfall  
001A River Location

Lat/Long  
44 36' 33.20" N  
67 55' 41.91" W

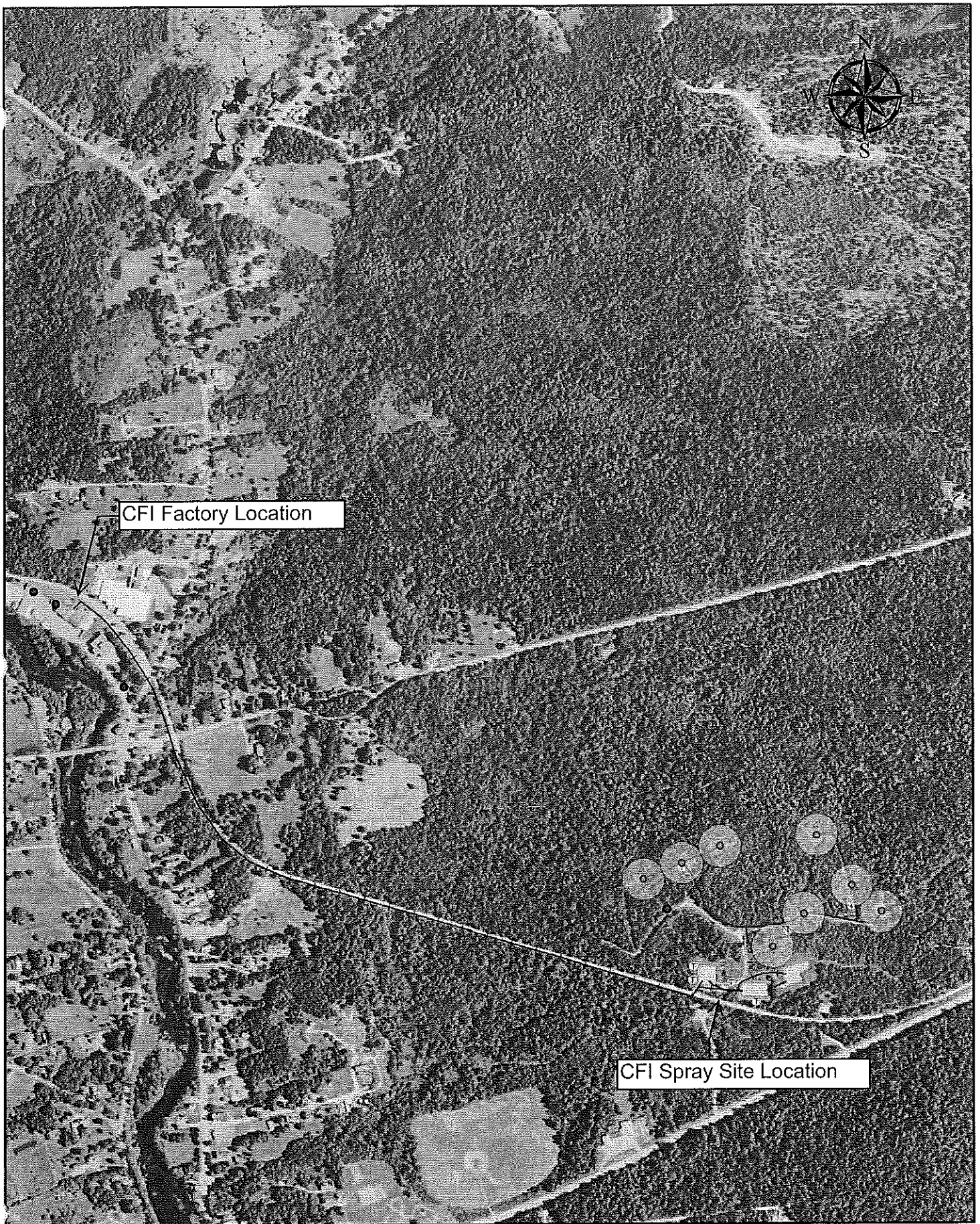


1:2,400 1 inch equals 200 feet



Cherryfield Foods Inc.  
Factory Outfall Location  
Stillwater Road

## **ATTACHMENT B**



1:9,600 1 inch equals 800 feet  
0 550 1,100 2,200 Feet

Cherryfield Foods Inc.  
Spray Irrigation Site and  
Factory location