



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

May 16, 2007

Mr. Erick Jensen
President, Pineland Farms Natural Meats Inc.
41 Campus Drive, Suite 203
New Gloucester, Maine 04360

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0036927
Maine Waste Discharge License (WDL) Application #W009002-5S-A-N
Final Permit

Dear Mr. Jensen:

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

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

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

Sincerely,

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

Enc.

cc: William Sheehan, DEP/NMRO
Mark Hedrich, DAFRR
Sandy Lao, USEPA

Alan Hunter, DAFRR
William Seekins, DAFRR

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

DEPARTMENT ORDER

IN THE MATTER OF

PINELAND FARMS NATURAL MEATS INC.)	MAINE POLLUTANT DISCHARGE
FORT FAIRFIELD, AROOSTOOK COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
CONCENTRATED ANIMAL FEEDING OPERATION)	AND
ME0036927)	WASTE DISCHARGE LICENSE
W009002-5S-A-N)	NEW
		APPROVAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et seq. and Maine Laws 38 M.R.S.A. and 7 M.R.S.A. et seq., and applicable regulations, the Maine Department of Environmental Protection (DEP hereinafter) has considered the application of PINELAND FARMS NATURAL MEATS INC. (PFNM hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The applicant has applied to the Maine DEP for a combination Maine Pollutant Discharge Elimination System (MEPDES) permit and Maine Waste Discharge License (WDL) to manage process waste waters and storm water runoff that are generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Fort Fairfield. The permittee is required to manage the facility such that there is no discharge of process waste waters to surface waters at precipitation events that are less than a 24-hour, 25-year storm event.

PERMIT SUMMARY

This permitting action is requiring the permittee to develop and implement Best Management Practices (BMP's) to prevent discharges to waters of the State of Maine, and implement an approved Nutrient Management Plan in accordance with Maine Department of Agriculture, Food and Rural Resources (DAFRR) regulation Chapter 565, *Nutrient Management Rules*, §6. It is noted the permittee has a pending application with the DAFRR for a Livestock Operation Permit (LOP) pursuant to Maine law, 7 M.R.S.A., §4204 and §4205 respectively.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated March 15, 2007 and subject to the Conditions listed below, the DEP makes the following CONCLUSIONS:

1. Discharges, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. Discharges, 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, 38 M.R.S.A., Section 464(4)(F), will be met, in that:
 - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - b. Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - c. The standards of classification of the receiving water body are not met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet standards of classification;
 - d. Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher quality will be maintained and protected; and
 - e. Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following the opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. Discharges will be subject to effluent limitations that require application of best practicable treatment.

SPECIAL CONDITIONS

A. DEFINITIONS

1. Process-generated waste water or waste water means any waste water directly or indirectly used in the operation of a feedlot for any or all of the following: spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits or other feedlot facilities, feed storage facilities, direct contact swimming, washing or spray cooling of animals; and dust control and any precipitation which comes in contact with any manure or litter, bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or direct products (e.g., milk). Waste water also includes any precipitation that comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animal or direct products (e.g., milk).
2. Retention facility or retention structures or waste water facility means all collection ditches, conduits and swales for the collection of runoff and waste water, and all basins, ponds and lagoons used to store wastes, waste waters and manure.
3. Storm water means storm water runoff or snow melt runoff that does not come into contact or co-mingle with process waste water.

B. AUTHORIZATION

This permit authorizes the PFNM to operate a CAFO that consists of up to 5,000 head of beef cattle. **Upon issuance of this permit, the PFNM is limited to placing 2,600 head of beef cattle on the farm** due to the facilities current inability to properly manage the manure generated by more than 2,600 head. Upon approval by the DEP of a revised nutrient management plan to properly manage manure from additional cattle, the permittee will be authorized, via written approval by the Department, to increase the herd size accordingly.

C. DISCHARGE LIMITATIONS

1. There shall be no discharge of process generated waste waters to surface waters at precipitation events that are less than a 24-hour, 25-year storm event that equates to 4.2 inches of rainfall.
2. Discharge(s) of storm water shall;
 - a. Not contain a visible oil sheen, foam or floating solids in the receiving waters at any time which would impair the usages designated by the classification of the receiving waters.
 - b. Not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.

SPECIAL CONDITIONS

C. DISCHARGE LIMITATIONS (cont'd)

- c. Not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.
- d. Notwithstanding specific conditions of this permit, discharges 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.

3. Notification of discharge(s):

If, for any reason, there is a discharge of process waste water from the facility to surface waters, non-compliance with this permit or a discharge that may endanger human health or the environment, the permittee is required to make verbal notification (within 24 hours) and written notification (within 5 days) to the DEP and the DAFRR entities listed in paragraph C(3)(e) below. In addition, the permittee shall keep a copy of the notification submitted to the Maine DEP and DAFRR together with the Nutrient Management Plan required by Special Condition F of this permit. The discharge notification shall contain the following information:

- a. Description of the discharge: A description and cause of the discharge, including a description of the flow path to the receiving water body and an estimation of the flow and volume discharged.
- b. Time of the discharge: The period of discharge, including exact dates and times, and the anticipated time the discharge is expected to continue.
- c. Cause of the discharge: If caused by precipitation event(s), information from the onsite rain gauge required by Special Condition E(7) of this permit concerning the size of the precipitation event must be provided.
- d. Steps being taken to reduce, eliminate and prevent recurrence of the non-complying circumstances or discharges.

SPECIAL CONDITIONS

C. DISCHARGE LIMITATIONS (cont'd)

- e. Verbal notification must be made to the Maine DEP and DAFRR (contacts below) within 24-hours of the facility discharge. Written notification including the information required above must be received by the Maine DEP and DAFRR within five (5) calendar days of the discharge.

Maine Department of Agriculture, Food and Rural Resources
Division of Animal Health & Industry
Attn: Nutrient Management Program
28 State House Station
Augusta, Maine 04333-0028 Telephone: (207)-287-1132

Maine Department of Environmental Protection
Attn: Compliance Inspector
Bureau of Land & Water Quality
Division of Water Quality Management
1235 Central Drive
Presque Isle, Maine 04769 Telephone: (207)-764-0477

- 4. Monitoring requirements for process water discharges: In the event of an overflow (or pre-planned emergency discharge) or any other discharge from the 10,000-gallon storage tank, storage bunkers, other waste water storage structures or feed storage operations, the following actions shall be taken:
 - a. Analysis of the discharge: All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters:

Fecal coliform bacteria	Five-day biochemical oxygen demand (BOD ₅)
Total suspended solids (TSS)	Total phosphorus as phosphorus
Ortho-phosphorus	Ammonia-nitrogen as nitrogen
Total kjeldahl nitrogen (TKN) as nitrogen	Nitrate & Nitrite as nitrogen
pH	

- b. Sampling procedures: Samples shall consist of grab samples collected from the overflow or discharges from the retention structure. A minimum of one sample shall be collected from the initial discharge (within 30 minutes or upon discovery). The sample shall be collected and analyzed in accordance with EPA approved methods for water analysis listed in 40 CFR 136. Samples collected for the purpose of monitoring shall be representative of the monitored discharge. If more than one sample is collected during the discharge, the samples may be composited (with the exception of pH and fecal coliform bacteria) when analyzed for the parameters in Special Condition C(4)(a) of this permit. Monitoring results must be submitted to the DAFRR and DEP at the addresses in Special Condition C(3)(e) of this permit within 30 days of the discharge event.

SPECIAL CONDITIONS

D. BEST MANAGEMENT PRACTICES

Each of the following minimum standards is designed to achieve the objective of preventing discharges of pollutants to waters of the State of Maine from CAFOs and from land application activities under the operational control of the CAFO. Minimum standards or portions of minimum standards to be implemented on the effective date of the permit. In addition to these minimum standards, permittees are also required to comply with other applicable technology-based and water quality-based effluent limitations of this permit.

- a. Minimum Standard: Buffers or Equivalent Practices - Provide and maintain buffer strips or other equivalent practices near feedlots, manure storage areas, and land application areas that are sufficient to minimize discharge of pollutants to surface waters of the State of Maine (e.g., soil erosion and manure and waste water). These practices may include, but are not limited to, residue management, conservation crop rotation, grassed waterways, strip cropping, vegetative buffers, forested riparian buffers, terracing, and diversion.
- b. Minimum Standard: Divert Clean Water - Design and implement management practices to divert clean water and floodwaters from contact with feedlots and holding pens; animal manure; or manure and/or process waste water storage systems. Clean water includes rain falling on the roofs of facilities, runoff from adjacent land, or other sources.
- c. Minimum Standard: Prevent Direct Contact of Animals With Surface Waters of the State of Maine - Develop and implement appropriate controls to prevent direct access of animals in confinement to surface waters of the State of Maine and to protect water quality.
- d. Minimum Standard: Animal Mortality - Handle and dispose of dead animals in a manner that prevents contamination of surface waters and ground waters of the State of Maine and complies with DAFRR Chapter 211 rules for the disposal of animal carcasses.
- e. Minimum Standard: Chemical Disposal - Prevent introduction of chemicals into manure and waste water storage structures for purposes of disposal. Examples include pesticides, hazardous and toxic chemicals, and petroleum products/by-products.
- f. Minimum Standard: Proper Operation & Maintenance - Implement an operation and maintenance program that involves periodic visual inspection and maintenance of all manure storage and handling equipment and structures and all runoff management devices (e.g., cleaning separators, barnyards, catch basins, screens, annual calibration of land application equipment, maintenance of filter strips). These activities will minimize the possibility of discharges of pollutants to surface waters of the State of Maine.

SPECIAL CONDITIONS

D. BEST MANAGEMENT PRACTICES

- g. Minimum Standard: Maintain Proper Storage Capacity - Store dry manure in production buildings or in storage facilities or otherwise store or modify the site (e.g. berms buffers) in such a way as to prevent polluted runoff (e.g., located on relatively flat land, away from water bodies, wetlands, and wells, and/or surrounded by a berm or buffer). Provide adequate storage capacity for the typical quantity of manure generated over a 180-day period of time beginning December 1st of each year.

E. LIVESTOCK OPERATING PERMIT

The permittee is required to maintain a valid Livestock Operating Permit from the Maine DAFRR pursuant to Maine law, 7 M.R.S.A., §4204.

F. NUTRIENT MANAGEMENT PLAN

Upon issuance of this permit, the permittee is required to maintain and implement a Nutrient Management Plan prepared in accordance with the standards in Maine's DAFRR regulation, Chapter 565, §6 And federal regulation 40 CFR, §122.42. The Nutrient Management Plan must be updated at least once each year and must be approved by a certified nutrient management plan specialist at least every five years. The Nutrient Management Plans must be kept on-site and current at all times.

G. GENERAL FACILITY INSPECTIONS AND MONITORING

Inspection, monitoring and record keeping activities shall be conducted in accordance with the following:

1. Employee Training: Where employees are responsible for work activities that relate to permit compliance, those employees must be regularly trained or informed of any information regarding the proper operation and maintenance of the facility and waste disposal. Training shall include topics as appropriate such as land application of wastes, proper operation and maintenance of the facility, good housekeeping and material management practices, necessary record keeping requirements, and spill response and clean up. The permittee is responsible for determining and providing the appropriate training frequency for different levels of personnel and maintain records of the training provided.
2. Record Keeping and Internal Reporting Procedures. Incidents such as spills or overflows, along with information describing the pollution potential and quantity of the discharge shall be described in writing. Inspections and maintenance activities shall be documented.

SPECIAL CONDITIONS

G. GENERAL FACILITY INSPECTIONS AND MONITORING (cont'd)

3. Visual Inspections. The permittee shall inspect equipment and facility areas daily and during and subsequent to any rain event. Material handling areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. At a minimum of once every two weeks, visual inspections of all manure and runoff storage structures, handling and distribution systems, feed storage operations other process systems or controls, and buffer strips shall be undertaken to ensure that all are in good condition and functioning properly.
4. Site Inspection. A complete inspection of the facility shall be conducted by the farm manager and a report made documenting the findings of the inspection made at least once/year. The report shall be kept on-site and made available to DAFRR, DEP and EPA staff upon request.
5. Reports/Records. All inspection reports and other record keeping required by this permit must be kept current at all times and maintained at the facility for at least three (3) years.
6. Precipitation - The permittee shall maintain a precipitation gauge at the facility and record the rainfall for each 24-hour period between April 1 and May 30 and October 1 through October 30 of each year or obtain daily precipitation records for said periods from other entities within a 25 miles radius of the farm.
7. Additional Monitoring Requirements

Additional analysis: Upon request by the Maine DEP and or DAFRR, the permittee may be required to conduct collect and analyze samples including but not limited to soils, surface water, ground water, and/or stored waste in a manner and frequency specified by Maine DEP and or DAFRR.

H. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of any pertinent information obtained during the term of this permit indicating that the discharge(s) are causing, contributing or have a reasonable potential to cause or contribute to the surface waters or ground waters not to attain the standards of their assigned classifications, this permit may be modified, after notice to the permittee to: 1) establish effluent limits necessary to control specific pollutants; (2) require monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

I. SEVERABILITY

In the event that any provision, or part thereof, of this permit modification is declared to be unlawful by a reviewing court, the remainder of the permit shall remaining in full force and effect, and shall 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

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **March 15, 2007**

PERMIT NUMBER: **ME0036927**
LICENSE NUMBER: **W009002-5S-A-N**

NAME AND ADDRESS OF APPLICANT:

**PINELAND FARMS NATURAL MEATS INC.
41 Campus Drive, Suite 203
New Gloucester, Maine 04360**

COUNTY: **Aroostook County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**252 Murphy Road
Fort Fairfield, Maine**

RECEIVING WATER/CLASSIFICATION: **Ground Water/Class GW-A**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Erick Jensen, President
(207) 688-4808**

1. APPLICATION SUMMARY

- a. Application: The applicant has applied to the Maine DEP for a combination Maine Pollutant Discharge Elimination System (MEPDES) permit and Maine Waste Discharge License (WDL) to manage process waste waters and storm water runoff that are generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Fort Fairfield. See Attachment A of this Fact Sheet for a location map. The permittee is required to manage the facility such that there is no discharge of process waste waters to surface waters at precipitation events that are less than a 24-hour, 25-year storm event.

1. APPLICATION SUMMARY (cont'd)

- b. Source description: Pineland Farms currently has the capacity to house 700 head of beef cattle (animals hereinafter) within two barns and 300 animals within an open pen area located south of the existing pole barn for a total of 1,000 animals. See Attachment B of this Fact Sheet for a layout of the farm property. The existing pole barn provides capacity for 300 animals and the newly constructed tarp building has the capacity to house 400 animal. Operations also utilize an open bin shed and a newly constructed metal silo to store feed and bedding materials from the elements. Conceptual plans have been developed to construct two new tarp buildings in 2007, capable of housing approximately 800 animal units each for a total of 2,600 animals (1,000 animals existing plus 1,600 proposed for 2007). Animals housed within buildings reduce the potential contamination of storm water runoff, and provides the animals protection from the elements.

Typical pen configurations house 40 animal units per pen, except in the new tarp building where pens are configured to house 80 animals. Each pen is constructed with an elevated bedding mound made from appropriate bedding material to provide a dry resting area. Pens are monitored daily and additional bedding material is applied as needed utilizing a skid steer loader. Currently PFNM utilizes sawdust bedding material from local saw mill facilities for animal waste management.

The open pen areas are located south of the pole barn within an impervious paved area. Drainage from the open pens is conveyed to existing catch basins and piped into an existing 10,000 gallon steel under ground storage tank. PFNM monitors the storage tank and pumps the tank as needed and spreads the contents of the tank on fields surrounding the farm.

Pens are typically cleaned on a three times per week schedule and the waste is transported by dump truck to the approved stacking area shown on Attachment B of this Fact Sheet. Waste characteristics are described within the Nutrient Management Plan. Manure waste consistencies are typically in the solid state due to the ratio of bedding material used.

Waste is stored in the approved staking areas and disposed off-site in accordance with the approved Nutrient Management Plan. Pineland currently utilizes a 130 foot wide by 550 foot long earthen bunker for the primary staking area. The earthen bunker is designed to contain runoff from annual precipitation and is capable of storing approximately 17,000-23,000 cubic yards of waste depending on waste characteristics. The current Nutrient Management Plan estimates that 600 animal units will generate 22,711 cubic yards of manure annually and 1,600 animal units will generate 50,553 cubic yards of manure annually. The site also includes a smaller earthen bunker located west of the larger bunker which is planned to be used for possible animal compost disposal. The bunker may also be utilized to store additional manure waste. The bunker is 130 feet wide by 350 feet long and is capable of storing approximately 11,000 cubic yards of waste.

1. APPLICATION SUMMARY (cont'd)

PFNM is proposing to develop the facility operation to a capacity of 5,000 animal by the year 2010. The Nutrient Management Plan submitted with the application to the DEP indicates that 5,000 animal units would generate approximately 189,259 cubic yards of manure waste annually. The facility is not currently capable of storing the proposed 2010 estimated quantity and will need to develop additional manure storage areas or modifying the Nutrient Management Plan in accordance with current regulations.

The PFNM facility was originally permitted by MDEP and developed by the Town of Fort Fairfield as a Industrial Waste Storage Site and Compost Facility. The facility was licensed under current site laws and given a State of Maine, Site Location of Development ("Site Law") license number L-13822-29-A-N.

Buildings and facility infrastructure are located in the southwest corner of the property, as shown on Attachment B of this Fact Sheet. Topography shows the southwest portion of the property to be the upper reaches with drainage being conveyed in a northeasterly direction with slopes varying between 3%-6%. Stormwater runoff from the buildings and gravel access roads sheet flows over grassed areas before converging to channel flow in a grassed open drainage ditch located east of the primary animal housing area. Runoff is then conveyed in a northeasterly direction to a wooded area located along the westerly boundary before reaching the head waters of Noyes Brook.

The open areas of the site are vegetated with typical grasses and utilized in the Summer months for open cattle grazing. The southeast portion of the site has two earthen bunkers, an abandoned lined lagoon, and a stormwater drainage pond. The site was initially designed to prevent potential stormwater runoff. The existing earthen bunkers were originally constructed with a collection drainage system, which is no longer operable. Drainage systems from the bunkers and site topography were designed to convey runoff from the site to the pond located east of the abandoned lagoon. The small pond has a PVC outlet pipe located on the south end of the pond which is the primary discharge point. Runoff from the pond is then conveyed in an easterly direction to Noyes Brook.

In accordance with the Natural Resource Conservation Service (NRCS), County Rainfall Data, a 25-year, 24-hour storm event would produce 4.2 inches of precipitation.

Runoff calculations from the open pen area would indicate a storm of this magnitude would generate approximately 113,000 gallons of stormwater. $(160' \times 270' \times 0.35') = 15,120$ cubic feet (cf), $15,120 \text{ cf} \times 7.48 \text{ gal/cf} = 113,097$ gallons.) Calculations show the worst case scenario, runoff could be greatly reduced depending on the moisture content of the animal bedding, and area of exposed bedding at the time of the storm event.

1. APPLICATION SUMMARY (cont'd)

The earthen bunker used to store manure is 130 feet wide by 550 feet long and is sloped from front to back like a paint tray. The bunker area could accumulate approximately 187,000 gallons of precipitation from a 4.2 inch storm event providing no infiltration were to occur, $[(130' \times 550' \times 0.35') \times 7.48 \text{ gal/cf} = 187,187 \text{ gallons}]$. Runoff from within the bunker area would flow southerly to the lowest end of the bunker. The bunker has the capacity to store approximately 935,000 gallons of runoff providing the bunker is empty. Manure waste characteristics are solidified due to the ratio of bedding material used, therefore in the event the bunker is full of manure the precipitation would be absorbed into the waste with no runoff.

2. PERMIT SUMMARY

- a. Terms & conditions: This permitting action is requiring the permittee to develop and implement Best Management Practices (BMP's) to prevent discharges of process waste waters to waters of the State of Maine and implement an approved Nutrient Management Plan in accordance with Maine Department of Agriculture, Food and Rural Resources (DAFRR) regulation Chapter 565, *Nutrient Management Rules*, §6. It is noted the permittee has a pending application with the DAFRR for a Livestock Operation Permit (LOP) pursuant to Maine law, 7 M.R.S.A., §4204 and §4205 respectively.
- b. History: The most recent relevant permitting/license and regulatory events include:

April, 1997 – Maine law, 7 M.R.S.A., Chapter 747, *Nutrient Management Act* was enacted.

December 1998 – The Maine DAFRR adopted regulation Chapter 565, *Nutrient Management Rules*. It is noted the regulation was last amended on February 17, 2001.

June 8, 2000 – The Maine DEP and DAFRR entered into a Memorandum of Agreement entitled, *Coordination of the Maine Livestock Operating Permit Program and the Maine Pollutant Discharge Elimination System Permit Program in Regards to Concentrated Animal Feeding Operations*. The purpose of the agreement is intended to 1) establish a collaborative process between the DEP and DAFRR so as to better coordinate review of CAFO's, and 2) clarify the roles and responsibilities of the two agencies in regard to the permitting of CAFO's under DAFRR Livestock Operating Permit (LOP) program and DEP's MEPDES permit program.

January 12, 2001 - The State of Maine received authorization from the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permitting program in Maine. From that date forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permitting program.

2. PERMIT SUMMARY (cont'd)

June 1, 2006 – The permittee developed a Nutrient Management Plan for their farm and the plan was written and approved by a certified Nutrient Management Planner.

August 2006 – The PFNM submitted an application to the DAFRR for a new LOP. The application was found to be deficient at that time and as a result, the DAFRR has not issued a LOP as of the date of this permitting action.

January 4, 2007 – PFNM submitted an application to the DEP for a new MEPDES permit.

3. CONDITIONS OF PERMITS

Maine law, 38 M.R.S.A. Section 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A., Section 420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, 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

Maine law, 38 M.R.S.A § 464 §(15)(c)(1)(f) classifies the Aroostook River at below its confluence with Noyes Brook as a Class C waterway. Maine law, 38 M.R.S.A., §465-B(4) establishes the classification standards for Class C waters.

Maine law, 38 M.R.S.A § 467 §(c)(2)(a) classifies Noyes Brook as a Class B waterway. Maine law, 38 M.R.S.A., §465-B(3) establishes the classification standards for Class B waters. The Department has made the determination that Noyes Brook has a drainage area of less than 10 square miles. Maine law 38 M.R.S.A., §464(4)(A)(1) states that the Department may not issue a water discharge license for a direct discharge of pollutants to waters having a drainage are of less than 10 square miles except that ; a) discharges into these waters that were licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist; and b) storm water discharges in compliance with state and local requirements are exempt from this subparagraph.

This permitting action does not authorize the permittee to discharge process waste waters directly to Noyes Brook under any circumstances. Special Condition B(1) of this permit prohibits any discharge of process wasters unless the discharge is associated with a precipitation event that exceeds a 25-year, 24-hour storm event. In this case, any discharge to Noyes Brook would be an indirect discharge as the process waste water would travel overland through extensive buffer strips prior to entering Noyes Brook.

5. RECEIVING WATER QUALITY CONDITIONS

A document entitled, The State of Maine, Department of Environmental Protection, 2004 Integrated Water Quality Monitoring and Assessment Report, published by the Department, pursuant to Section 305(b) of the Federal Water Pollution Control Act, does not contain any information that indicates that Noyes Brook is not attaining the standards of its assigned classification.

6. APPLICABLE LAWS, RULES AND/OR REGULATIONS

- a. Pursuant to Section 502(14) of the federal Water Pollution Control Act (Clean Water Act), CAFO's are defined as point source dischargers.
- b. Maine law 38 M.R.S.A. §413 states that "No person may directly or indirectly discharge or have cause to be discharged any pollutant without first obtaining a license therefor from the Department."
- c. Maine DEP rule, Chapter 521, *Applications For Waste Discharge Licenses*, §6(a) states "Permit requirement. Concentrated animal feeding operations are point sources subject to the NPDES permit program. The Department will consult with the Department of Agriculture and all applications for concentrated animal feeding operations in order to consolidate permitting requirements where feasible." It is noted the rule references federal regulations found at 40 CFR Part 122.23 requiring CAFO's to obtain a federal NPDES permit. However, given that the USEPA has authorized the State of Maine to administer the NPDES permit program in Maine, MEPDES permits will be issued to CAFO's.

Maine DEP Chapter 521, §6(b)(3)-Appendix B establishes the criteria for determining a CAFO. The PFNM is categorically considered a CAFO as the facility will have at least 1,000 slaughter and feeder cattle by the end of calendar year 2007.

- d. Federal regulation 40 CFR Part 412 – *Feedlots Point Source Category*, establishes effluent limitations and guidelines representing best practicable control technology currently available (BPT) and best available technology economically achievable (BAT). BPT and BAT for CAFO's is no discharge of process waste water pollutants to navigable waters where process waste waters are defined as any process generated waste and any precipitation (rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (e.g. milk, eggs).

ATTACHMENT B