

STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

Mr. Alfred Wren
Martin Stream Farm LLC.
Box 451 Files Hill Road
Thorndike, Maine 04986

January 12, 2009

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036821
Maine Waste Discharge License (WDL) Application #W008243-5S-B-R
Concentrated Animal Feeding Operation (CAFO)
Martin Stream Farm LLC
Final Permit/License

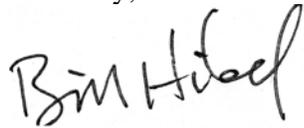
Dear Mr. Wren:

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,



for:

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

Enc.

cc: James Sohns, DEP/EMRO Dennis Merrill, DEP/CMRO
Mark Hedrich, DAFRR Alan Hunter, DAFRR
Sandy Mojica, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

MARTIN STREAM FARM, LLC)	MAINE POLLUTANT DISCHARGE
DIXMONT, PENOBSCOT COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
CONCENTRATED ANIMAL FEEDING OPERATION)	AND
ME0036821)	WASTE DISCHARGE LICENSE
W008243-5S-B-R)	TRANSFER & RENEWAL
		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 the MARTIN STREAM FARM, LLC, (MSF) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The MSF has applied to the Maine DEP for a transfer and renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0036821/Maine Waste Discharge License (WDL) #W008243-5S-A-N (permit hereinafter). The permit authorized the discharge of storm water to Martin Stream and an adjacent wetland (both Class A waterbodies) and manage process waste waters that are generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Dixmont such that there is no discharge to surface waters. The permit was originally issued to Country Acres Farm Inc. on August 15, 2006 for a five-year term.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the 8/15/06 permit except that this permitting action is;

1. Deleting Special Condition F, *Spray Irrigation Operational Procedures, Logs and Reports*, in its entirety.
2. Deleting Special Condition G, *Drainage Swale Cleaning*, in its entirety.
3. Deleting Special Condition H, *Manure Storage Pit Abandonment Or Reduced Use*, in its entirety.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated December 1, 2008 and subject to the Conditions listed below, the DEP 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, 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. 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. The discharge will be subject to effluent limitations that require application of best practicable treatment.
5. The permittee has demonstrated it has title, right and or interest in the farm as well as the technical ability and the financial capacity to comply with all conditions of the permit.

ACTION

THEREFORE, the DEP APPROVES the above noted application of the MARTIN STREAM FARM LLC, to renew and transfer MEPDES permit #ME0036821/Maine WDL #W008243-5S-A-N dated August 15, 2006. The permit authorizes the discharge of storm water to Martin Stream and an adjacent wetland, Class A waterbodies and manage process waste waters generated by the operation of a CAFO located in Dixmont such that there are no discharge(s) to surface waters. The CAFO is SUBJECT TO THE ATTACHED 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 expires five (5) years from the date of signature below.

Date of initial receipt of application: December 1, 2008

Date of application acceptance: December 1, 2008

This order prepared by Gregg Wood, BUREAU OF LAND AND WATER QUALITY

SPECIAL CONDITIONS

A. DISCHARGE LIMITATIONS

1. There shall be no discharge of process generated waste waters to Martin Stream or adjacent wetlands. See Special Condition H(1) of this permit for a definition of process waste waters.
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.
 - 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 Maine Department of Environmental Protection (DEP) and the Department of Agriculture, Food and Rural Resources (DAFRR) entities listed in paragraph A(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 D 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.

SPECIAL CONDITIONS

A. DISCHARGE LIMITATIONS (cont'd)

- c. Cause of the discharge: If caused by precipitation event(s), information from the onsite rain gauge required by Special Condition E(6) 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.
- e. Verbal notification must be made to the Maine DEP and DAFRR 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. The contact telephone numbers and addresses are:

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
106 Hogan Road
Bangor, Maine 04011 Telephone: (207)-941-4571

- 4. Monitoring requirements for process water discharges: In the event of an overflow or any other discharge from the storage lagoons, 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 nitrogen	
pH	

SPECIAL CONDITIONS

A. DISCHARGE LIMITATIONS (cont'd)

- 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 A(4)(a) of this permit. Monitoring results must be submitted to the DAFRR and DEP at the addresses in A(3)(e) of this permit within 30 days of the discharge event.

B. 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.

SPECIAL CONDITIONS

B. BEST MANAGEMENT PRACTICES (cont'd)

- e. Minimum Standard: Chemical Disposal - Prevent introduction of chemicals into manure and waste water storage structures for purposes of disposal. Examples include pesticides, herbicides, cleaning and disinfectant chemicals, veterinary medicines and compounds, hazardous and toxic chemicals, fuels 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) and to-prevent discharges of pollutants to surface waters of the State of Maine.
- g. Minimum Standard: Maintain Proper Storage Capacity - Maintain sufficient freeboard (one foot) in liquid manure storage structure to ensure compliance with the permit conditions.

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.

C. LIVESTOCK OPERATIONS PERMIT

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

D. NUTRIENT MANAGEMENT PLAN

Upon issuance of this permit, the permittee is required to develop and implement a Nutrient Management Plan in accordance with the standards in Maine's DAFRR regulation, Chapter 565, §6. 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.

SPECIAL CONDITIONS

E. 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.
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. 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 proper working order.
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. All inspection reports and other record keeping required above must be kept current at all times and maintained at the facility.
6. If the operator of the farm chooses to self-record rainfall data then (see footnote #5 on page 9 of this permit) a rain gauge shall be maintained at the facility to record values for each 24-hour period.

SPECIAL CONDITIONS

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

7. Summary of Inspection and Monitoring Requirements:

PARAMETER	UNITS	FREQUENCY
Facility inspection¹		
Lagoon or storage structure monitoring and inspection		
Freeboard ²	Feet	Bi-Weekly
Structural integrity (i.e., visual inspection for the integrity of berms) ³	N/A	Bi-Weekly
Precipitation		
Rainfall ⁴	Inches	Daily

Footnotes:

¹ A complete inspection of the facility shall be done and a report made annually.

² Bi-weekly (every two weeks) between February 1 and March 30 and the month of November of each calendar year or when freeboard falls below 1.5 feet. For lagoons or other liquid storage basins, report the water level as feet (to the nearest 1/10th of a foot) below the emergency overflow level. For solid manure storage structures, report the percentage of remaining storage capacity.

³ Bi-weekly (every two weeks) between February 1 and March 30 and the month of November of each calendar year. Documentation of compliance with this requirement must be compiled in an inspection report to be kept at the facility.

⁴ The permittee shall maintain a precipitation gauge at each storage facility and record the rainfall for each 24-hour period between March 1 and April 30 and November 1 through November 30 of each year or obtain daily precipitation records for said periods from other entities within a 25 miles radius of the farm.

SPECIAL CONDITIONS

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

8. Additional Monitoring Requirements

Additional analysis: Upon request by the Maine DEP and or DAFRR, the permittee may be required to 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.

Additional monitoring for some high risk operations: Upon notification by Maine DEP and DAFRR, the permittee may be required to conduct ambient monitoring of surface and/or groundwater. For example, facilities with historical compliance problems, especially large facilities, facilities with significant environmental concerns, or facilities impacting impaired water bodies.

F. 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.

G. 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.

SPECIAL CONDITIONS

H. 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 as defined in Section H(1) of this permit.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **December 1, 2008**

PERMIT NUMBER: **ME0036821**
LICENSE NUMBER: **W008243-5S-B-R**

NAME AND ADDRESS OF APPLICANT:

**MARTIN STREAM FARM, LLC
Box 451 Files Hill Road
Thorndike, Maine 04986**

COUNTY: **Piscataquis County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**1056 Moosehead Trail Road
Dixmont, Maine**

RECEIVING WATER/CLASSIFICATION: **Martin Stream, Class A**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Alfred Wren
(207) 568-3447
fewren@uninets.net**

1. APPLICATION SUMMARY

- a. Application: The Martin Stream Farm, LLC (MSF) has filed an application with the Maine Department of Environmental Protection (DEP) for a transfer and renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0036821/Maine Waste Discharge License (WDL) #W008243-5S-A-N (permit hereinafter). The permit authorized the discharge of storm water to Martin Stream and an adjacent wetland (both Class A waterbodies) and manage process waste waters that are generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Dixmont such that there is no discharge to surface waters. The permit was originally issued to Country Acres Farm Inc. on August 15, 2006 for a five-year term.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description – The Farm has been identified as a CAFO as the facility has at least 200 mature dairy cattle and pollutants are discharged into waters of the State that originate outside of and pass over, across, or through or otherwise come into direct contact with the animals confined in the operation. The animals are confined on a year-round basis in up to five large barns with open-air side walls and fully covered with roofs. The five barns have a total of 800 freestalls which results in a total barn capacity of 880 animals.

The permittee proposes to move approximately 300 dry or milking cows onto the farm on or about January 1, 2009. Over a one-year time frame, the permittee anticipates growing the herd to approximately 400 animals. A consultant for the permittee has calculated that the manure storage pit may be able to accommodate up to 415 milking cows based on the bedding use at the Wren's present dairy operation and typical values for manure and wash water. The DAFRR has agreed to 400 cows as being the manure storage pit capacity and agreed to re-vist this issue after one winter's storage period when actual volumes will be available based on actual numbers of cows, bedding use and waste water generated.

As a result of significant non-compliance with the DAFRR's 4/2/03 provisional LOP and violations of Maine laws and the federal Clean Water Act, the facility was shutdown in 2007 and all animals were removed from the farm. In calendar year 2007 and 2008, significant structural changes by the owner (Agri-Max) were undertaken to bring the farm into compliance with said laws. The largest modification to the farm was the demolition of the "L" shaped manure storage pit located behind the four smaller barns and the milking parlor. All manure was removed from the pit and spread on farm lands in accordance with DAFRR rules and regulations, the concrete asphalt floor was removed and disposed of properly and the area was re-graded to promote sheet flow of storm water runoff from the area around the four smaller barns. In addition, a holding tank has been installed to temporarily store all milk room wastes prior to being conveyed to the single square manure storage pit. The DAFRR has made a determination that the manure storage pit is designed and capable of capturing a 25 year, 24-hour rainfall event. Manure will be spread on various fields owned and or leased by the MSF as permitted by the Nutrient Management Law.

2. PERMIT SUMMARY

- a. Terms and conditions - This permitting action is carrying forward all the terms and conditions of the 8/15/06 permit except that this permitting action is;
 1. Deleting Special Condition F, *Spray Irrigation Operational Procedures, Logs and Reports*, in its entirety.
 2. Deleting Special Condition G, *Drainage Swale Cleaning*, in its entirety.

2. PERMIT SUMMARY (cont'd)

3. Deleting Special Condition H, *Manure Storage Pit Abandonment Or Reduced Use*, in its entirety.

b. History: The most recent relevant permitting/license and regulatory events include:

April, 1997 – Maine law, 7M.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 CAFOs, and 2) clarify the roles and responsibilities of the two agencies in regard to the permitting of CAFOs under DAFRR Livestock Operations 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.

June 2005 – The Country Acre Farm (former operator) developed a Nutrient Management Plan for their farm and the plan was approved by a certified Nutrient Management Plan specialist and reviewed and approved by DAFRR.

June 19, 2006 – The Country Acre Farm submitted a complete application to the DEP and DAFRR.

August 15, 2006 – The DEP issued combination MEPDES permit #ME0036821/Maine WDL #W008243-5S-A-N to Country Acres Farm Inc. for a five-year term.

November 16, 2006 – The DAFRR issued a letter to Country Acres Farm Inc. stating that the provisional LOP issued on April 2, 2003 was being revoked as of December 1, 2006 due to non-compliance with the LOP.

December 1, 2008 – The MSF submitted an application to the DEP to transfer and renew the 8/15/06 MEPDES permit/Maine WDL issued to Country Acres Farm Inc.

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

Pursuant to Maine law, 38 M.R.S.A., §467(4)(H)(2)(d) classifies Martin Stream (on the northern perimeter of the Martin Stream Farm's barn yard), the adjacent wetland classified as being of special significance and its tributaries upstream of the Ridge Road in Plymouth as Class A water ways. Maine law 38 M.R.S.A., §465(2) contains the standards for waters classified as Class A. Class A waters shall be of such quality that they are suitable for the designated uses of drinking water after disinfection; fishing; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; and navigation; and as habitat for fish and other aquatic life. The habitat shall be characterized as natural.

The dissolved oxygen content of Class A waters shall be not less than 7 parts per million or 75% of saturation, whichever is higher. The aquatic life and bacteria content of Class A waters shall be as naturally occurs. It is noted, Maine law, 38 M.R.S.A., §464(4)(c) states "Where natural conditions, but not limited to, marshes, bogs, and abnormal concentrations of wildlife cause the dissolved oxygen or other water quality criteria to fall below the minimum standards specified in sections 465, 465-A and 465-B, those waters shall not be considered to be failing to attain their classification because of those natural conditions."

Except as provided in this paragraph, direct discharges to these waters licensed after January 1, 1986 are permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the department shall require the applicant to objectively demonstrate to the department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available. Discharges into waters of this classification licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist.

Pursuant to Maine law 38 M.R.S.A, §D & §E state that storm water discharges to Class A waters must be in compliance with state and local requirements and material may not be deposited on the banks of Class A waters in any manner that makes transfer of pollutants into the waters likely.

5. RECEIVING WATER QUALITY CONDITIONS

A document entitled, The State of Maine, Department of Environmental Protection, 2008 Integrated Water Quality Monitoring and Assessment Report, published by the Department, pursuant to Section 305(b) of the Federal Water Pollution Control Act, list Martin Stream in a table entitled, *Category 4-B: Rivers And Streams Impaired by Pollutants – Pollution Control Requirements Reasonably Expected to Result in Attainment*. The report indicates A 0.5-mile segment below the former Country Acre Farm was impaired and was caused by ammonia (un-ionized) being discharged from draining manure piles. The report states that with the issuance of a CAFO permit, discharges are expected to cease and Martin Stream will return to a quality in which ambient water quality standards are attained.

6. APPLICABLE LAWS, RULES AND/OR REGULATIONS

- a. Pursuant to Section 502(14) of the federal Water Pollution Control Act (Clean Water Act), CAFOs 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 are issued to CAFOs.

Maine DEP Chapter 521, §6(b)(3)-Appendix B establishes the criteria for determining a CAFO. The Country Acre Farm is categorically considered a CAFO as the facility has at least 200 mature dairy cattle and pollutants are discharged into waters of the State which originate outside of and pass over, across, or through or otherwise come into direct contact with the animals confined in the operation.

6. APPLICABLE LAWS, RULES AND/OR REGULATIONS (cont'd)

- 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 CAFOs 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).
- e. Maine law, 7 M.R.S.A, §4204(H)(2) establishes the criteria for who must develop and implement a Nutrient Management Plan. CAFOs meet applicable criteria under this section. Maine DAFRR regulation Chapter 565, *Nutrient Management Rules*, §6(1) establishes the standards for Nutrient Management Plans required under Maine law, 7 M.R.S.A, §4204. Chapter 565, §6(2) requires Nutrient Management Plans to be updated at least once each year and must be approved by a certified nutrient management plan specialist at least every five years.
- f. Maine law, 7 M.R.S.A, §4205(A) requires CAFO's to obtain a Livestock Operations Permit (LOP). Maine DAFRR regulation Chapter 565, *Nutrient Management Rules*, §8(1)(a) requires the owner or operator of a CAFO to obtain a LOP or provisional LOP from the DAFRR.

7. GENERAL FACILITY INSPECTIONS AND MONITORING

The inspections, monitoring and recordkeeping required by this permitting action were developed based on guidance provided by the USEPA to promote consistency with nationwide permitting of CAFOs. In addition, the DEP consulted with the Maine DAFRR to develop inspections, monitoring and recordkeeping that would serve both agencies program requirements.

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 surface water bodies to meet standards of Class A classification.

9. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper on or about November 26, 2008. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

10. DEPARTMENT CONTACTS

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

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

Attn: MEPDES Permitting Coordinator
Maine Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333-0017
Telephone: (207) 287-3901

11. RESPONSE TO COMMENTS

During the comment period of December 1, 2008 through January 2, 2009, the Department solicited comments on the proposed draft permit for Martin Stream Farm LLC. No comments were received on the draft permit itself but the Department did receive a letter dated December 3, 2008, from Jerry Harding, a Dixmont landowner. Mr. Harding requested the Board of Environmental Protection take jurisdiction over the December 1, 2008 application submitted by the permittee for the renewal and transfer of the MEPDES permit. Mr. Harding expressed concerns about past operating practices at the facility including discharges of manure to Martin Stream as well as a number of housekeeping issues such as manure being tracked on the public road and flies.

Department personnel contacted Mr. Harding by phone and talked through the issues raised in his letter. In addition, the Department sent a copy of the draft permit to Mr. Harding for his review and comment. As of the date of issuance of this permit, the Department has not receive any further comments from Mr. Harding.

The Department issued a letter to Mr. Harding denying the request to have the Board on Environmental Protection take jurisdiction over the application for renewal and transfer. The Department's letter stated Mr. Harding's concerns did not rise to the level in which the Board would take jurisdiction over the application pursuant to the criteria established in Department rule, 06-096 CMR, Chapter 2, *Rules Concerning the Processing of Applications and Other Administrative Matters*.