



STATE OF MAINE
Department of Environmental Protection

John Elias Baldacci
GOVERNOR

David P. Littell
COMMISSIONER

July 1, 2010

Mr. Daniel Bowker
Environmental Coordinator
Maine Wild Blueberry Company
Park Street, Cherryfield, ME. 04622

RE: Permit Compliance System Tracking Number # MEU508253
Maine Waste Discharge License (WDL) Application # W008253-5P-A-N
Final License

Dear Mr. Bowker:

Enclosed, please find a copy of the **final** Maine WDL for Maine Wild Blueberry's Machias facility which was approved by the Department of Environmental Protection. Please read the 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 the matter, please feel free to call me at 287-7693 or send me an e-mail at gregg.wood@maine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Wood'.

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

Enc.

cc: Clarissa Trasko, DEP/EMRO
Sandy Mojica, USEPA



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

DEPARTMENT ORDER

IN THE MATTER OF

MAINE WILD BLUEBERRY COMPANY)	PROTECTION AND IMPROVEMENT
MACHIAS, WASHINGTON COUNTY, MAINE)	OF WATERS
SURFACE WASTE WATER DISPOSAL SYSTEM)	
PCS TRACKING MEU508253)	WASTE DISCHARGE LICENSE
WDL W008253-5P-A-N)	NEW
APPROVAL)	

Pursuant to the provisions of 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the MAINE WILD BLUEBERRY COMPANY, (MWB/licensee hereinafter) with supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

MWB has submitted an application to the Department for a new Waste Discharge License (WDL) to operate surface waste water disposal system on a 10-acre parcel of forested land off of the Stackpole Road in the Town of Machias. MWB is requesting the Department issue a WDL that authorizes the disposal of blueberry processing and wash down waste water generated at a rate of up to a maximum of 100,000 gallons per day. The WDL authorizes the licensee to apply waste water to the spray irrigation fields at an average rate of no greater than approximately 62,500 gallons per acre per week for a total maximum of 625,000 gallons per week over the entire 10-acre spray irrigation area.

LICENSE SUMMARY

This license establishes limitations and monitoring requirements on the waste waters prior to spray irrigation and on the application of the waste water applied to the land as well as for ground water quality monitoring and detailed record keeping on the overall operation of the system.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated May 25, 2010, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 MRSA Section 464(4)(F), will be met, in that:
 - (a) Existing 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 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 the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the above noted application of THE MAINE WILD BLUEBERRY COMPANY, to operate a surface waste water disposal system to dispose of up to 625,000 gallons per week, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. *Standard Conditions of Industrial Waste Discharge Licenses*” revised August 14, 1996, copy attached.
2. The attached Special Conditions, including effluent limitations and monitoring requirements.
3. This license expires five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: May 13, 2010
Date of application acceptance: May 13, 2010

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY
MEU508253 2010 7/1/10

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of the license, the licensee is authorized to operate a surface waste water treatment and disposal system. The **STORAGE TANK EFFLUENT (OUTFALL 001)** ⁽¹⁾ shall be limited and monitored as specified below.

	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Biochemical Oxygen Demand <i>[00310]</i>	Report, mg/L <i>[19]</i>	1/Month ⁽²⁾ <i>[01/30]</i>	Grab <i>[GR]</i>
Nitrate-Nitrogen <i>[00620]</i>	Report, mg/L <i>[19]</i>	1/Month ⁽²⁾ <i>[01/30]</i>	Grab <i>[GR]</i>
Specific Conductance <i>[00095]</i>	Report, umhos/cm <i>[11]</i>	1/Month ⁽²⁾ <i>[01/30]</i>	Grab <i>[GR]</i>
Pesticides ⁽⁸⁾ <i>[74053]</i>	Report (ug/L) <i>[28]</i>	1/Month ⁽²⁾ <i>[01/30]</i>	Grab <i>[GR]</i>
PH (Standard Units) <i>[00400]</i>	Report S.U. <i>[12]</i>	1/Month ⁽²⁾ <i>[01/30]</i>	Grab <i>[GR]</i>

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

Footnotes: - See page 7 and 8 of this license.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

2. Beginning the effective date of the license, application of waste water to the land via a spray irrigation system shall be limited to the time period **April 15th to November 15th of each calendar year**. The three **SPRAY-IRRIGATION FIELDS, (SF-N, SF-C and SF-S – See Attachment D of the Fact Sheet)** shall be limited and monitored as specified below.

Parameter	Monthly <u>Total</u>	Weekly <u>Average</u>⁽⁴⁾	Measurement <u>Frequency</u>	Sample <u>Type</u>
<u>Application Rate (Weekly)</u> ⁽³⁾ SF-N SF-C SF-S <i>[51125]</i>	---	393,704 gal/week 122,184 gal/week 108,608 gal/week <i>[8G]</i>	1/Week 1/Week 1/Week <i>[01/07]</i>	Calculate Calculate Calculate <i>[CA]</i>
<u>Flow – Total Gallons</u> ⁽³⁾ SF-N SF-C SF-S <i>[82220]</i>	Report (Gallons) Report (Gallons) Report (Gallons) <i>[80]</i>	--- --- ---	1/Month 1/Month 1/Month <i>[01/30]</i>	Calculate Calculate Calculate <i>[CA]</i>

Footnotes: - See page 7 and 8 of this license.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS

3. Beginning the effective date of the license , **GROUND WATER MONITORING WELLS (MW-009A, MW-009B, MW-009C, MW-009D AND MW-009E – See Attachment E of the Fact Sheet)** shall be limited and monitored as specified below.

Monitoring Parameters	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Nitrate-Nitrogen <i>[00620]</i>	10 mg/L <i>[19]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
Depth to Water Level Below Landsurface <i>[72019]</i>	Report (feet) ⁽⁵⁾ <i>[27]</i>	3/Year ⁽⁶⁾ <i>[03/YR]</i>	Measure <i>[MS]</i>
Specific Conductance <i>[00095]</i>	Report (umhos/cm) <i>[11]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
Temperature <i>[00011]</i>	Report (Farhenheit) <i>[15]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
PH (Standard Units) <i>[00400]</i>	Report (S.U.) <i>[12]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>
Pesticides ⁽⁸⁾ <i>[74053]</i>	Report (ug/L) <i>[28]</i>	1/Month ⁽²⁾ <i>[01/30]</i>	Grab <i>[GR]</i>
Total Suspended Solids <i>[00530]</i>	Report (mg/L) <i>[19]</i>	2/Year ⁽⁷⁾ <i>[02/YR]</i>	Grab <i>[GR]</i>

Footnotes: Please refer to pages 7 and 8

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes – [Special Condition A(1), A(2), and A(3)]

Lagoon Effluent

- (1) Lagoon effluent shall be sampled at a point in the lagoon's effluent discharge pipe leading to the spray irrigation area and shall be representative of what is actually sprayed on the fields. Any change in sampling location must be approved by the Department in writing.

Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended 2/13/00). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Laboratory Certification Rules*, 10-144 CMR263 (last amended February 13, 2000).

All detectable analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the actual detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit. Compliance with this license will be evaluated based on whether or not a compound is detected at or above the Department's RL.

- (2) Lagoon effluent sampling shall be conducted in the months of **April, May, August, and October** of each calendar year in accordance with approved methods for sampling, handling and preservation. The licensee is not required to test for these parameters during a month where no waste water was disposed of via the spray irrigation system.

SPECIAL CONDITIONS

A. LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Footnotes – [Special Condition A(1), A(2), and A(3)]

Spray-Irrigation Fields

- (3) A field's weekly application rate is the total gallons sprayed over the applicable period of time divided by the size of the wetted area of the spray-irrigation field or the area in acres of that portion of the field utilized. Note: 27,150 gallons is equivalent to one acre-inch. The licensee shall measure the flow of waste water to the 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.
- (4) For Discharge Monitoring Report (DMR) reporting purposes, the licensee shall report the highest weekly application rate for the month in the applicable box on the form. Compliance with weekly reporting requirements must be reported for the month in which the calendar week ends.

Ground Water Monitoring

- (5) 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.
- (6) Depth to Water Level Below the Land Surface shall be conducted in the months **of May, August and October** of each calendar year.
- (7) Ground water sampling shall be conducted the months of **May and October** of each year. Sampling, handling and preservation shall be conducted in accordance with federally approved methods. Temperature and pH are considered to be "field" parameters and are to be measured in the field via instrumentation. Specific conductance (calibrated to 25.0° C) may be measured either in the field or the laboratory pursuant to sampling guidance above. Specific Conductance values indicating a statistically significant trend upwards or sudden spikes from previous levels may necessitate the need for additional groundwater testing requirements to determine causes and effects as related to spray irrigation activities. The licensee is required to test for these parameters whether wastewater was disposed of via the spray-irrigation system or not.
- (8) See Special Condition L, *Pesticides*, of this license.

SPECIAL CONDITIONS

B. TREATMENT PLANT OPERATOR

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

C. AUTHORIZED DISCHARGES

The licensee is authorized to discharge treated waste water only in accordance with the terms and conditions of this license and only to the existing spray-irrigation fields (**SF-N, SF-C and SF-S**) and from those sources as indicated in the Waste Discharge License application dated May 13, 2010. Discharge of waste water from any other location or from sources other than those indicated on said application requires formal modification of this license.

D. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain materials in concentrations or combinations which would impair the uses designated by the classification of the ground water.
2. The effluent must not lower the quality of any classified body of water (ground water is a classified body of water under Title 38, Section 465-C) below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

E. NOTIFICATION REQUIREMENT

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

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

SPECIAL CONDITIONS

F. GENERAL OPERATIONAL CONSTRAINTS

1. All waste water shall receive treatment through a properly designed, operated and maintained screen and settling tank system prior to land irrigation.
2. The spray-irrigation facilities shall be effectively maintained and operated at all times so that there is no discharge to surface waters, nor any contamination of ground water which will render it unsatisfactory for usage as a public drinking water supply.
3. The surface waste water disposal system shall not cause the lowering of the quality of the ground water, as measured in the ground water monitoring wells specified by this license, below the State Primary and Secondary Drinking Water Standards specified in the Maine State Drinking Water Regulations pursuant to Maine law 22 M.R.S.A. § 2611. In the event that ground water monitoring results indicate lowering of the existing groundwater quality, the licensee may be required to take immediate remedial action(s), which may include but not limited to, adjustment of the irrigation schedule or application rates, a reduction of the pollutant loading, ground water remediation, or ceasing operation of the system until the groundwater attains applicable standards.
4. The Department shall be notified as soon as the licensee becomes aware of any threat to public health, unlicensed discharge of waste water, or any malfunction that threatens the proper operation of the system. Notification shall be made in accordance with the attached Standard Condition #4 of this license.
5. The licensee shall maintain a file on the location of all system components and relevant features. System components including collection pipes, tanks, manholes, pumps, pumping stations, spray disposal fields, and monitoring wells shall be identified and referenced by a unique identifier (alphabetical, numeric or alpha-numeric) in all logs and reports. Each component shall be mapped and field located sufficiently to allow adequate inspections and monitoring by both the licensee and the Department.

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

1. Waste water may not be applied to areas without sufficient vegetation or ground cover as to prevent erosion or surface water runoff outside the designated boundaries of the spray fields. There shall be no significant runoff within or outside of the spray irrigation area due to the spray irrigation events.
2. At least 10 inches of separation from the ground surface to the ground water table shall be present prior to spray irrigation.

SPECIAL CONDITIONS

G. SPRAY IRRIGATION OPERATIONAL CONSTRAINTS, LOGS AND REPORTS

3. No waste water shall be applied to the site following a rainfall accumulation exceeding 1.0 inches within the previous 24-hour period. **A rain gauge shall be located on site to monitor daily precipitation.** The licensee shall also manage application rates by taking into consideration the forecast for rain events in the 48-hour period in the future.
4. No waste water shall be applied where there is snow present on the surface of the ground.
5. No waste water shall be applied when there is any evidence of frost or frozen ground within the upper 10 inches of the soil profile.
6. No traffic or equipment shall be allowed in the spray-irrigation field except where installation occurs or where normal operations and maintenance are performed.
7. **Prior to the commencement of spray irrigation for the season,** the licensee shall 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 shall install the equivalent of one ground water level inspection well per spray field to verify that 10 inches of separation from the ground surface to the observed groundwater level is present prior to spraying. Depths to ground water shall be recorded in accordance with the format of "*Depth to Groundwater*" provided as **Attachment C** of this license.
9. The licensee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities. Should significant malfunctions or leaks be detected, the licensee must shut down the malfunctioning portion of the spray system and make necessary repairs before resuming operation. The licensee shall cease irrigation if runoff is observed outside the designated boundaries of the spray field.
10. **The licensee shall maintain a daily log** of all spray irrigation operations which records, the date, weather and soil conditions, rainfall, areas irrigated, volume sprayed (gallons), application rates (daily and weekly), and other relevant observations/comments from daily inspections. The log shall be in accordance with the format of the "*Monthly Operations Log*" provided as **Attachment A** of this license.

Weekly spray application rates shall be reported in accordance with the format of the "*Spray Application Report by Week*" provided as **Attachment B** of this license. The *Monthly Operations Log, Spray Application Report by Week, and Depth to Groundwater* for each month shall be submitted to the Department as an attachment to the monthly Discharge Monitoring Reports (DMR's). Copies will also be maintained on site for Department review upon request.

SPECIAL CONDITIONS

H. VEGETATION MANAGEMENT

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

I. TANK MAINTENANCE

1. The integrity of the settling tank shall be inspected periodically during the operating season and properly maintained at all times. There shall be no overflow through or over the tanks. Any signs of leaks or overflow shall be repaired or corrected immediately.
2. The settling tanks shall be cleaned of solid materials as necessary to maintain the proper operating depths in both types of tanks that will provide best practicable treatment of the waste water. All material removed from the tanks and lagoon shall be properly disposed of in accordance with all applicable State and Federal rules and regulations.

J. INSPECTIONS AND MAINTENANCE

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

SPECIAL CONDITIONS

K. GROUND WATER MONITORING WELLS

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

L. PESTICIDES

On or before December 1st of each year, [PCS code 95999] the licensee shall report to the Department any insecticides, fungicides, and herbicides (collectively referred to as pesticides) that have been used during the previous growing season and **on or before March 1st [PCS code 95999]** report pesticides that may be used in the next growing season on blueberries processed through the facility. Such notification shall include analytical test methods and minimum levels of detection available for each pesticide. 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. If a pesticide(s) of concern is identified, the Department will request additional monitoring in the facility's effluent during the month of August, pursuant to Special Condition O, *Reopening of License for Modifications*, based on the new information.

If deemed appropriate, sampling for pesticides in the storage tanks and ground water shall continue for as long as the parameter is detected at or above a State or federal; (1) Maximum Exposure Guideline (MEG), (2) Action Level (AL), (3) Maximum Contamination Level (MCL) or (4) other scientifically-defensible critical thresholds established in literature. If a parameter is not detected in the storage tank effluent, it does not need to be sampled for in the ground water monitoring locations provided the ground water is satisfying all the critical thresholds listed above.

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

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

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

SPECIAL CONDITIONS

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

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

N. MONITORING AND REPORTING

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

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

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

O. REOPENING OF LICENSE FOR MODIFICATIONS

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

SPECIAL CONDITIONS

P. SEVERABILITY

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

Monthly Operations Log

Attachment A

(Month/Year) _____)

WDL #W008235 Field #

Weekly Application Rate: _____

	A	B	C	D	E	F	G	H	I	J	K
Day	D a t e	Precip. Inches	T e m p	Weather	Wind- Direction Speed	Soil Moisture	Quantity- Total Gallons Pumped	Name of Field(s) Used	Acres Sprayed (Sum of Col H x Area of Each Field)	Gallons/Acre (inches) (Col G divided by I)	Total Inches
	1										
	2										
	3										
	4										
	5										
	6										
	7										
	8										
	9										
	10										
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	23										
	24										
	25										
	26										
	27										
	28										
	29										
	30										
	31										
Monthly Total =											

WDL #W008253;(Month _____, Year _____) Weekly Application Rate: _____

Field Name/#	Effective Spray Area (Acres)	Weekly Limit (Gallons/Acre)	Actual Spray Application Rates (Gallons per Acre)					Number of Exceptions to Weekly Limit	Monthly Average
			Week 1	Week 2	Week 3	Week 4	Week 5		
Note: 1 acre-inch is equivalent to 27,150 gallons of liquid. 27,150 gallons per acre is equivalent to 1.0 inch and 81,456 gallons is equivalent to 3.0 inches						Total Number of Exceptions			

A spray-field's weekly application rate if the total gallons sprayed (Sunday through Saturday) divided by the size of the spray-field in acres or the size in acres of that portion of the spray field utilized.

Note: Special Condition F(2) of this license requires that a depth of 10 inches from the ground surface to the groundwater table must be present prior to spraying. The licensee shall report the minimum depth to groundwater in the table above.

Signature of Responsible Official: _____, Date _____

Depth to Groundwater (Tenths of Feet)

Attachment C

(Month _____, Year _____)

Facility Name: Maine Wild Blueberry WDL #W008253

Field Name/#	Monitoring Location	1. Depth to Groundwater (Measured From Ground Surface in Tenths of Feet)					Number of Exceptions	Monthly Average Depth
		Week 1	Week 2	Week 3	Week 4	Week 5		
						Total Number of Exceptions		

Note: Special Condition F of the license requires that a depth of 10 inches from the ground surface to the groundwater table must be present prior to spraying. The licensee shall report the minimum depth to groundwater in the table above.

Signature of Responsible Official: _____, Date _____

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **May 25, 2010**

COMPLIANCE TRACKING NUMBER: **MEU508253**

LICENSE NUMBER: **#W008253-5P-A-N**

NAME AND MAILING ADDRESS OF APPLICANT:

**MAINE WILD BLUEBERRY COMPANY
Park Street, P.O. Box 128
Cherryfield, Maine 04622**

COUNTY: **Washington County**

NAME AND ADDRESS OF FACILITY:

**Stackpole Road
Machias, Maine 04654**

RECEIVING WATER/ CLASSIFICATION: **Groundwater/Class GW-A**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**Mr. Daniel Bowker
Environmental Coordinator
(207) 546-1780
e-mail: dbowker@cherryfieldfoods.com**

1. APPLICATION SUMMARY:

- a. Application. The Maine Wild Blueberry Company (MWB/licensee hereinafter) has submitted an application to the Department for a new Waste Discharge License (WDL) to operate surface waste water disposal system on a 12-acre parcel of forested land off of the Stackpole Road in the Town of Machias. See **Attachment A** of this Fact Sheet for a location map.

MWB has submitted an application to the Department for a new Waste Discharge License (WDL) to operate surface waste water disposal system on a 10-acre parcel of forested land off of the Stackpole Road in the Town of Machias. MWB is requesting the Department issue a WDL that authorizes the disposal of blueberry processing and wash down waste water generated at a rate of up to a maximum of 100,000 gallons per day. The WDL authorizes the licensee to apply waste water to the spray irrigation fields at an average rate of no greater than approximately 62,500 gallons per acre per week for a total maximum of 625,000 gallons per week over the entire 10-acre spray irrigation area.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description: The waste water to be land apply is generated through the processing of harvested and production of wild Maine blueberries and cranberries. These waste products are typically made up of wash water, blueberry juice, and some particulate remnants (mostly seeds, stems and skins) of blueberries and cranberries broken during production activities. The production of various berry products occurs year-round, and land spray application is being proposed between the dates of April 15th and November 15th. The waste water may also contain trace amounts of sodium hypochlorite (<0.010 mg/l) from production equipment cleaning in accordance with food processing standards.

Normal flows of process water from the production facility are generally in the 5,000 to 15,000 gallons per day (gpd) range. During peak fresh fruit production seasonal flows may be +/- 100,000 gpd. This application for >25,000 gpd is to accommodate peak flows from the production facility as well as for normal production times of year.

Currently all berry processing water is collected in the two on site storage basins and transported via tank truck to the Jonesboro facility for spray irrigation. The Jonesboro facility is regulated by the Department via Waste Discharge License #W008236 last issued by the Department on July 26, 2006, for a five-year term. The Jonesboro facility may still receive the excess water during peak high flow season and the non-permitted time of year. See **Attachment B** of this Fact Sheet for a Process Flow Diagram for the production processes at MWB.

- c. Waste Water Treatment: Blueberry/cranberry processing waste water flows by gravity from the production facility to a tank below the waste water treatment facility building. The treatment facility is located westerly across the parking lot from the plant. The water is pumped via a 4" centrifugal pump, from the tank below the building to a hydro sieve beside the building on a concrete pad mounted on a frame above a transport truck. The solids greater than 1/16" are removed from the water and fall into the transport truck for delivery to a composting facility. The water then flows by gravity into settling basin #1 to allow finer particulate solids to settle. The partially clarified water is then pumped from settling basin #1 to storage basin 2. Distribution to the spray irrigation fields occurs from this tank. The two basins are 58'-0" x 58'-0" each having a capacity of 301,953 gallons at a working depth of 12'-0" with four (4') feet freeboard. This gives an on site average working capacity of 603,906 gallons. The total on site max holding capacity w/zero freeboard is 800,000 gallons. See **Attachment C** of this Fact Sheet for schematic of the pretreatment system at WMB.

Settled solids within the tankage will be periodically removed and land applied as an agronomic use on the blueberry lands in township 25 MD BPP. This application is permitted by the Department under permit # S-020901-SF-B-N.

1. APPLICATION SUMMARY (cont'd)

MWB proposes to utilize a 10-acre spray application area. Within the spray application area there will be two (2) application rates depending on the soil types and three (3) separate spray sections depending on the geographical location of the spray areas. The irrigation system will look and operate much like the system at the Jonesboro facility, currently being operated by MWB. The six inch main line will be run underground from the production facility to the spray site. Within the spray site the six inch distribution piping will be run above ground through the spray sites and continue to the furthest site. Three inch laterals will branch from the irrigation main line across the proposed spray fields. Rainbird sprinklers will be used and elevated 24 inches above the lateral. These will be strategically placed to evenly distribute the water with a 60 foot radius. See **Attachment D** of this Fact Sheet for a layout of the spray irrigation system.

The licensee is proposing to utilize two different spray irrigation applications rates within each of three fields. These fields are named based on their geographical locations around the property. The first most northerly section will be named Spray Field North (SF-N). The second section is in the middle named Spray Field Central (SF-C). The third section is the most southerly and named Spray Field South (SF-S). Each spray field is separated by an area of poorly drained soils. On the well drained to moderately well drained soils, the licensee is proposing to distribute 3 inches per acre per week or 81,456 gallons per acre per week. For the moderately well drained to somewhat poorly drained soils the licensee is proposing to evenly distribute 1 inch per acre per week or 27,152 gallons per acre per week. These areas will be buffered with a 25 foot minimum buffer zone, located in upland areas. Refer to the attached maps for a visual identification of these described outfalls and sections.

Since this portion of the project does not include any actual earthwork or disturbing of native soils, no erosion or sediment control plan is anticipated. MWB proposes to lay distribution piping on the surface of the ground and set up spray stations to cover our proposed application areas. Should it be necessary (not anticipated) to excavate in an area, silt fence and hay bale berms would be utilized for short term prevention of erosion and to provide temporary stabilization of soils. Any sites which are disturbed will be seeded with grass for long term stabilization.

The proposed spray areas are currently forested with a mixed growth generally consisting of spruce, fir, pine, and maple. Areas of dense forestation will be thinned for installation of the irrigation system and the forested land will be managed for optimal distribution of water and best agronomic up take of the nutrients in the berry water generated by MWB. The cutting process will be performed by a professional logging company under the guidance of a certified forester using best management practices.

2. LICENSE SUMMARY

This license establishes limitations and monitoring requirements on the waste waters prior to spray irrigation and on the application of the water to the land as well as for ground water quality monitoring and detailed record keeping on the overall operation of the system.

3. CONDITIONS OF THE LICENSE

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 Water Classification System.

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A § 470 indicates the groundwater at the point of discharge is classified as Class GW-A receiving waters. Maine law, 38 M.R.S.A., §465-C describes the standards for Class GW-A waters as the highest classification of groundwater and shall be of such quality that it can be used for public water supplies. These waters shall be free of radioactive matter or any matter that imparts color, turbidity, taste or odor which would impair the usage of these waters, other than occurring from natural phenomena.

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

a. Storage Tank Effluent

The waste water that is being disposed of at this facility is the same waste water that is being trucked to and disposed of at MWB's Jonesboro facility. Since May of 2007, MWB has been characterizing the waste water at the Jonesboro facility and the test results may be summarized as follows:

BOD concentration (DMRs=9)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	648 – 4,719	2,181

TSS concentration (DMRs=9)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	28 - 73	57

Specific conductance (DMRs=9)

Value	Limit (umhos/cm)	Range (umhos/cm)	Avg. (umhos/cm)
Daily Maximum	Report	289 - 488	400

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

pH (DMRs=9)

Value	Limit (s.u.)	Range (s.u.)	Avg. (s.u.)
Daily Maximum	Report	3.95	4.37

Nitrate nitrogen concentration (DMRs=9)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	0.01 – 1.06	0.75

Total kjedahl nitrogen concentration (DMRs=9)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	2.0 – 4.7	3.2

Chemical oxygen demand concentration (DMRs=9)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	Report	1,458 – 7,361	3,467

The Department is making the determination that MWB has adequately characterized the waste water to be disposed of on the proposed site. Therefore, this licensing action is limiting the monitoring requirements for the storage tank effluent to BOD, Nitrate – nitrogen, specific conductance and pH. The licensee shall monitor the storage tank effluent in April, May, August, and October of each calendar year.

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

This licensing action establishes a weekly average hydraulic loading rate for each individual spray field based on a weighted average of two different spray rates based on in-situ soil characteristics. On the well drained to moderately well drained soils, the licensee is proposing to distribute 3 inches per acre per week or 81,456 gallons per acre per week. For the moderately well drained to somewhat poorly drained soils the licensee is proposing to evenly distribute 1 inch per acre per week or 27,152 gallons per acre per week.

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

The weighted weekly average application rates were derived as follows:

SF-N

Each spray head has a radius of 60 feet resulting in an area of 0.25 acres/spray head. The licensee proposed to place 16 spray heads in the well drained soils and 10 spray heads in the somewhat poorly drained soils. The total weekly average hydraulic loading rate can be calculated as follows:

$$(0.25 \text{ acres/spray head})(16 \text{ spray heads})(81,456 \text{ gal/acre/week}) = 325,844 \text{ gallons}$$

$$(0.25 \text{ acres/spray head})(10 \text{ spray heads})(27,152 \text{ gal/acre/week}) = \underline{67,880 \text{ gallons}}$$

$$\Sigma = 393,704 \text{ gallons}$$

SF-C

Each spray head has a radius of 60 feet resulting in an area of 0.25 acres/spray head. The licensee proposed to place 4 spray heads in the well drained soils and 6 spray heads in the somewhat poorly drained soils. The total weekly average hydraulic loading rate can be calculated as follows:

$$(0.25 \text{ acres/spray head})(4 \text{ spray heads})(81,456 \text{ gal/acre/week}) = 81,456 \text{ gallons}$$

$$(0.25 \text{ acres/spray head})(6 \text{ spray heads})(27,152 \text{ gal/acre/week}) = \underline{40,728 \text{ gallons}}$$

$$\Sigma = 122,184 \text{ gallons}$$

SF-C

Each spray head has a radius of 60 feet resulting in an area of 0.25 acres/spray head. The licensee proposed to place 5 spray heads in the well drained soils and 1 spray heads in the somewhat poorly drained soils. The total weekly average hydraulic loading rate can be calculated as follows:

$$(0.25 \text{ acres/spray head})(5 \text{ spray heads})(81,456 \text{ gal/acre/week}) = 101,820 \text{ gallons}$$

$$(0.25 \text{ acres/spray head})(1 \text{ spray heads})(27,152 \text{ gal/acre/week}) = \underline{6,788 \text{ gallons}}$$

$$\Sigma = 108,608 \text{ gallons}$$

$$\text{Total for 10-acre site} = 393,704 \text{ gal.} + 122,184 \text{ gal.} + 108,608 = 624,496 \text{ gallons}$$

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

c. Groundwater Monitoring Wells

The licensee is proposing to monitor five ground water monitoring wells. The approximate locations of the wells are shown on a plan in **Attachment E** of this Fact Sheet. The monitoring wells are:

Monitoring Wells	Location
MW-009A	Easterly of SF-N
MW-009B	Southeasterly of SF-N
MW-009C	Between and easterly of SF-C and SF-S
MW-009D	Southerly of SF-S
MW-009E	Southerly of MW-009D – Serves as background well.

The parameters to be monitored include nitrate-nitrogen, specific conductance, temperature, pH and total suspended solids. The monitoring wells shall be sampled in May and October of each year.

6. 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 licensee 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.

7. IMPACT ON RECEIVING WATER QUALITY

As licensed, 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 water body to meet standards for Class GW-A classification.

8. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper, a newspaper with general circulation in the area of the licensee’s operations on or about April 9, 2010. In addition, a public informational meeting was held on April 21, 2010 in Machias in which seventeen (17) people attended. 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.

9. DEPARTMENT CONTACTS

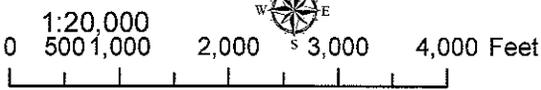
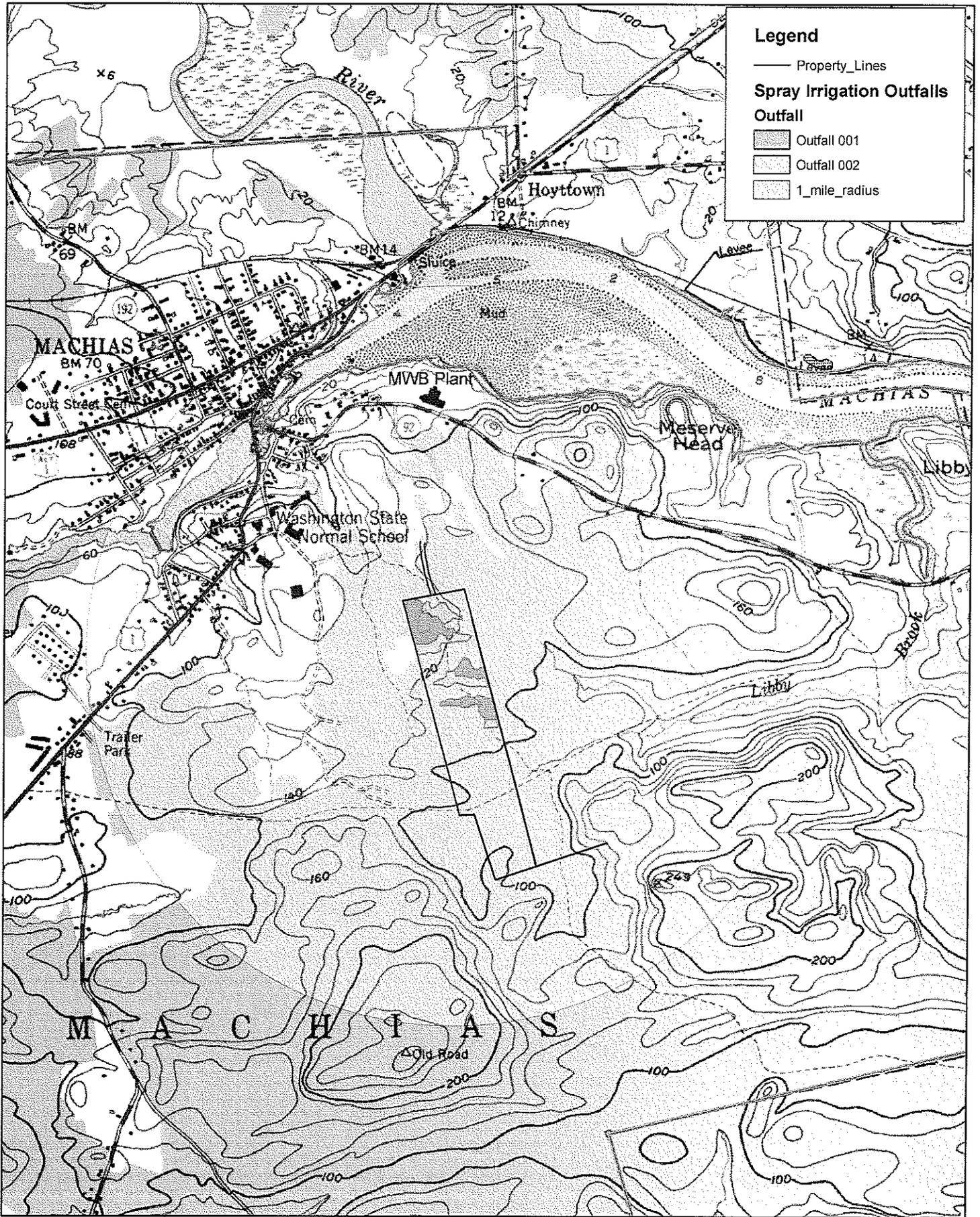
Additional information concerning this licensing action may be obtained from and written comments should be sent to:

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

10. RESPONSE TO COMMENTS

During the period of May 25, 2010, through the issuance date of the license, the Department solicited comments on the proposed draft license to be issued for the discharge(s) from the licensee's facility. The Department did not receive comments from the licensee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the license. Therefore, the Department has not prepared a Response to Comments.

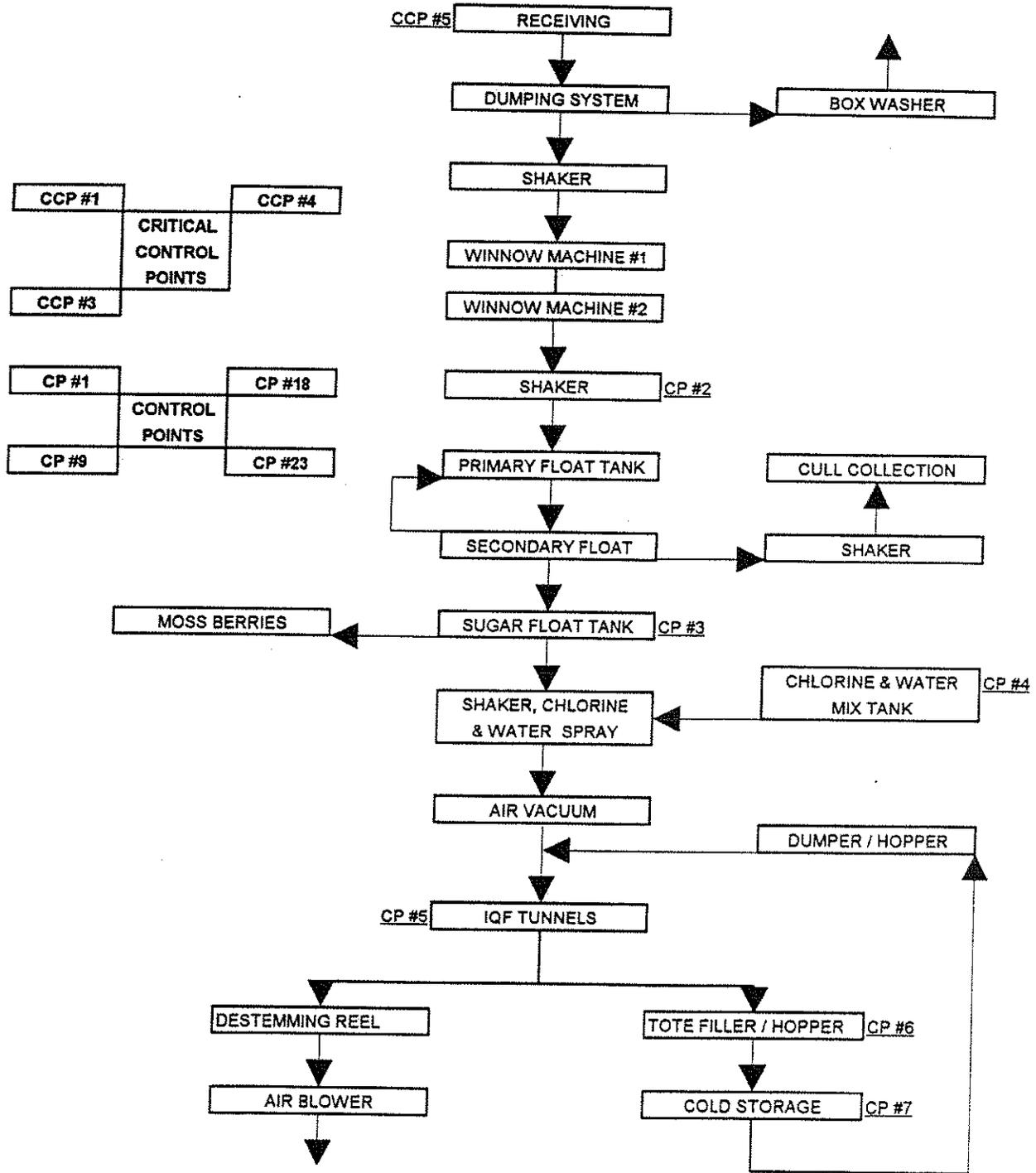
ATTACHMENT A



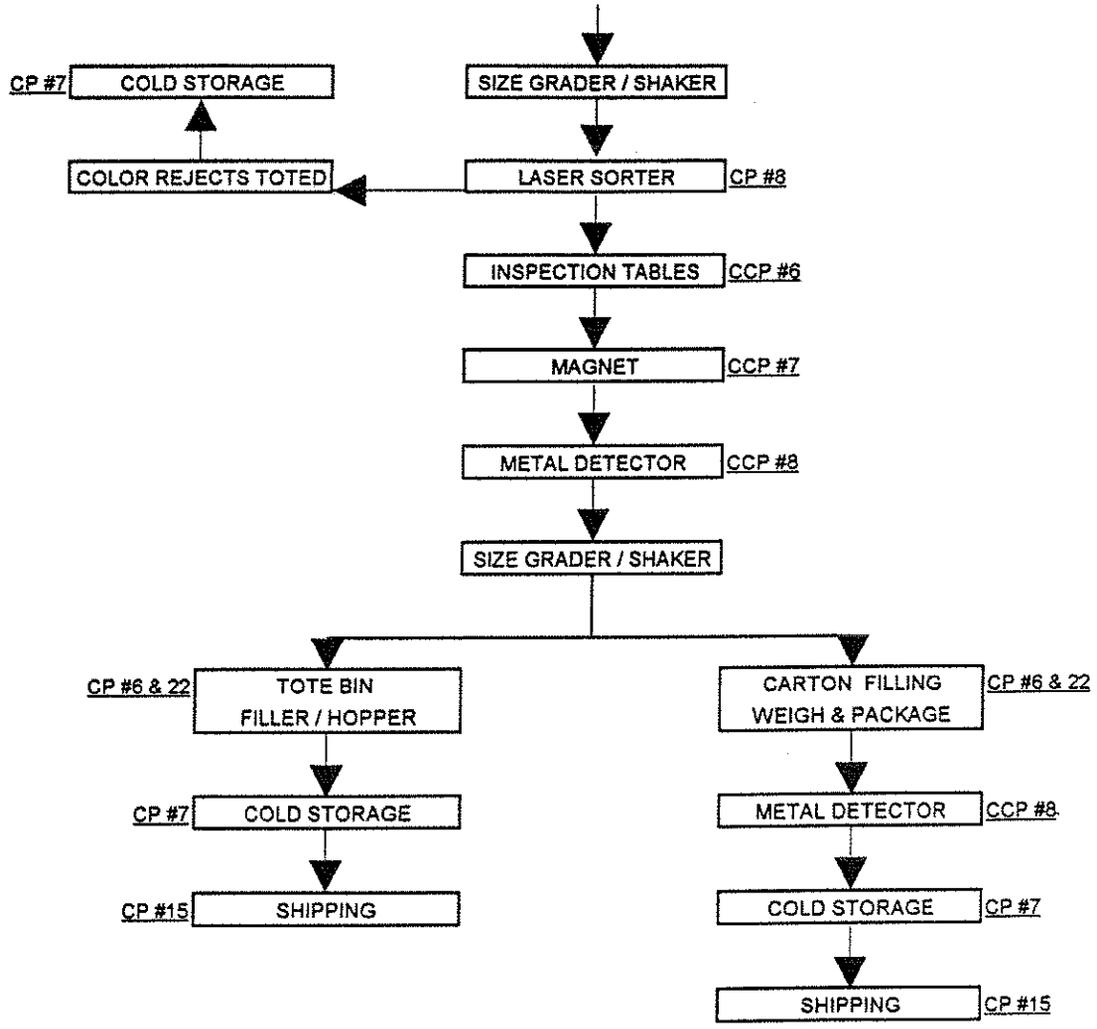
Maine Wild Blueberry Co.
Machias Spray Irrigation
7.5 min Topographic Map

ATTACHMENT B

MAINE WILD BLUEBERRY COMPANY IQF FRUIT PRODUCTION PROCESS FLOW DIAGRAM

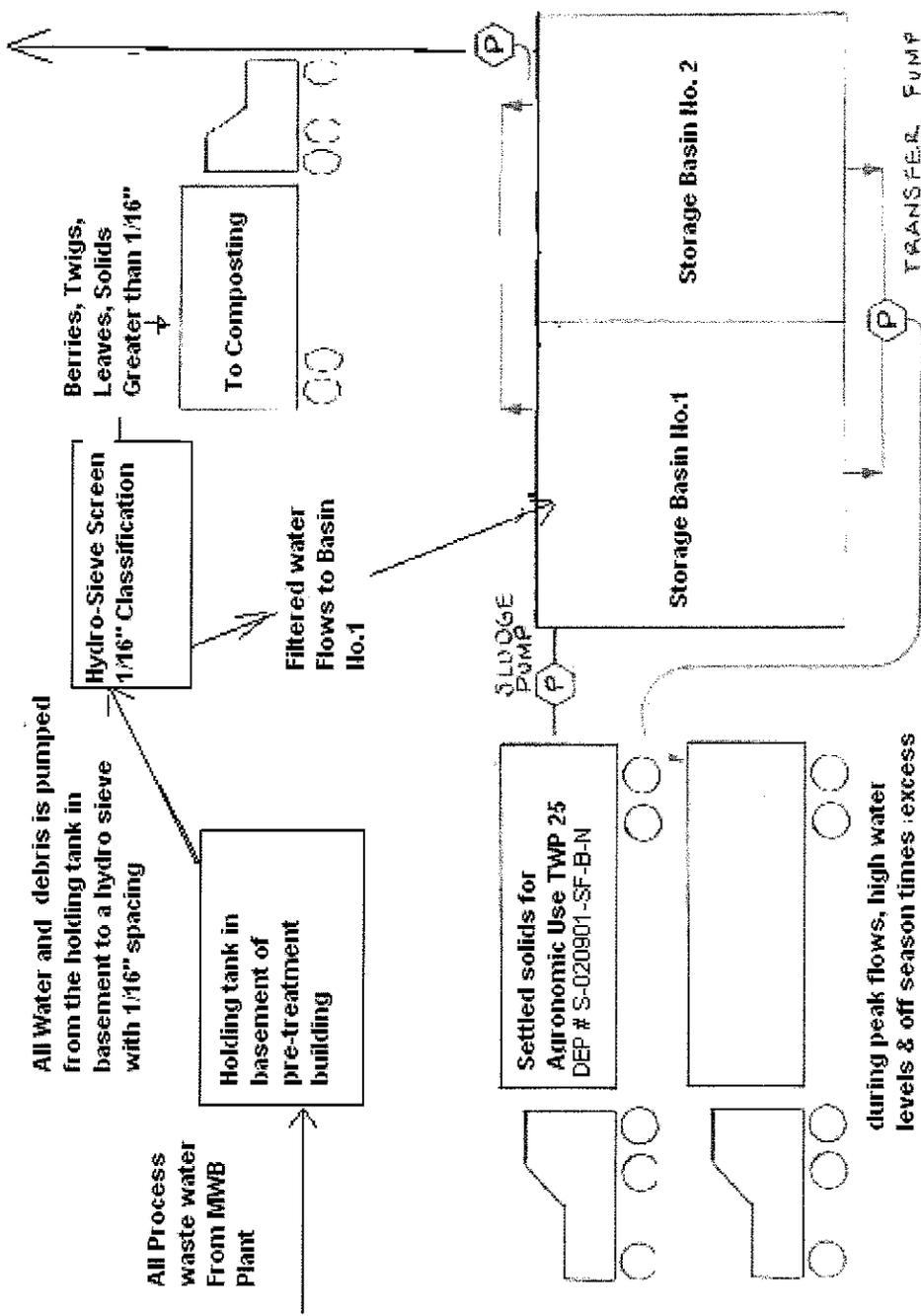


**IQF FRUIT PRODUCTION
PROCESS FLOW DIAGRAM**



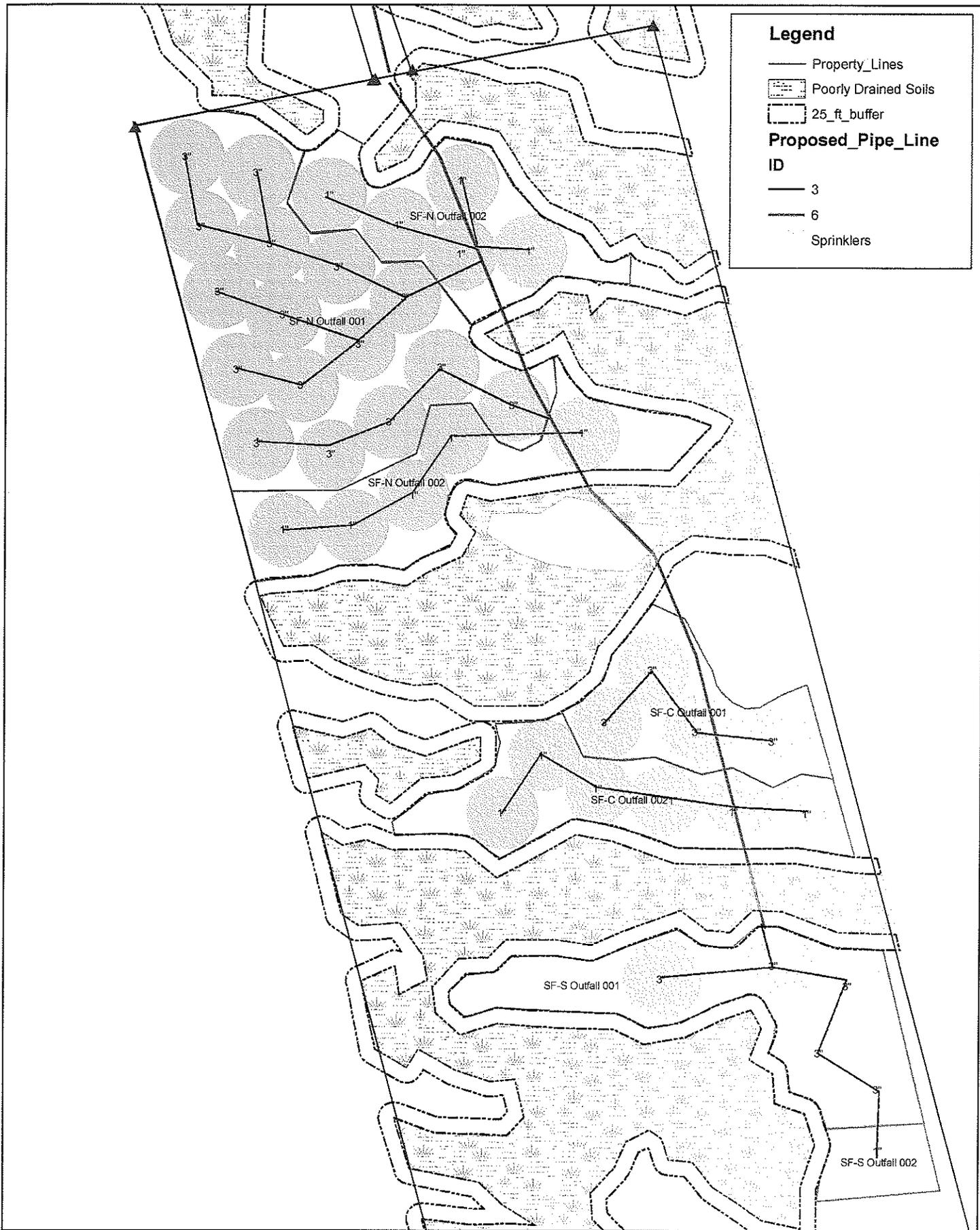
ATTACHMENT C

Pumped to Proposed Irrigation System



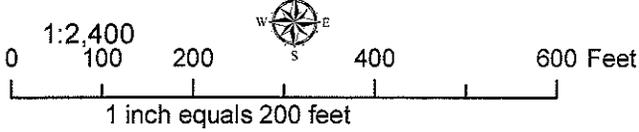
MAINE WILD BLUEBERRY PRODUCTION FACILITY PRETREATMENT SCHEMATIC

ATTACHMENT D



Legend

- Property_Lines
- ▨ Poorly Drained Soils
- - - 25_ft_buffer
- Proposed_Pipe_Line ID**
- 3
- 6
- Sprinklers

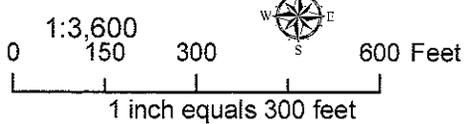
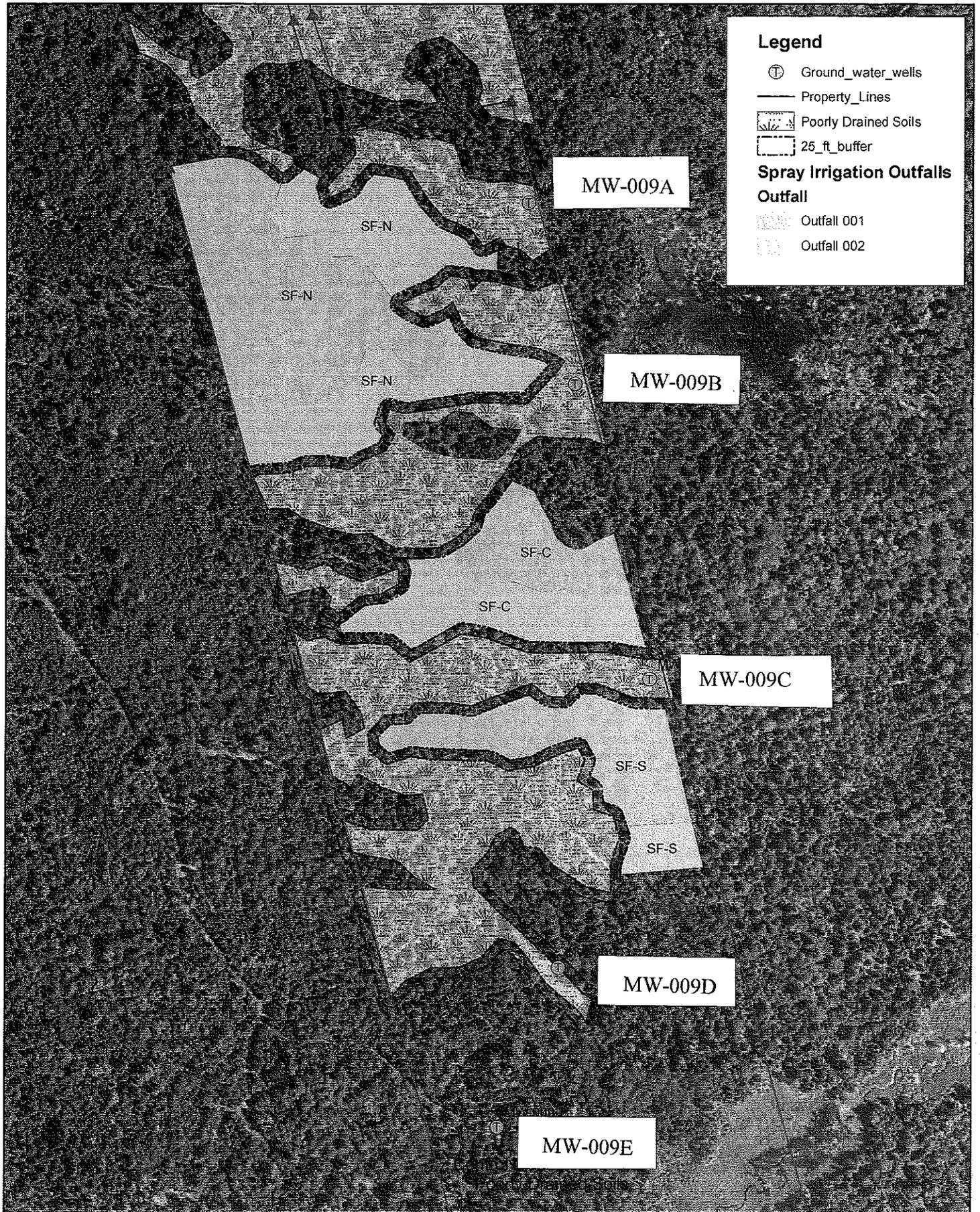


**Maine Wild Blueberry Co.
 Machias Spray Irrigation
 Irrigation System Design**

ATTACHMENT E

Legend

- ⊕ Ground_water_wells
- Property_Lines
- ▨ Poorly Drained Soils
- ⊞ 25_ft_buffer
- Spray Irrigation Outfalls**
- ⊞ Outfall 001
- ⊞ Outfall 002



Maine Wild Blueberry Co.
Machias Spray Irrigation
Monitoring Well Locations

STANDARD CONDITIONS OF POTW WASTE DISCHARGE LICENSES

REVISED 7/16/96

1. General Conditions

- A. All discharges shall be consistent with the terms and conditions of this license; 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 license; it shall be a violation of the terms and conditions of this license 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 license.
- B. The licensee shall permit the Department of Environmental Protection Staff upon the presentation of proper credentials:
 - (1) To enter upon licensee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this license;
 - (2) To have access to and copy any records required to be kept under the terms and conditions of this license;
 - (3) To inspect any monitoring equipment or monitoring method required in this license; or,
 - (4) To measure and/or sample at any intake, process or cooling effluent stream, waste water treatment facility and/or outfall.
- C. This license shall be subject to such monitoring requirements as may be reasonably required by the Department of Environmental Protection including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The licensee shall provide the Department of Environmental Protection with periodic reports on the proper Department of Environmental Protection reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.
- D. This license does not preclude obtaining other required Federal, State or Municipal permits and does not authorize or approve the construction of any on-shore physical structures or facilities or the undertaking of any work in any navigable waters.

- E. The issuance of this license does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights nor any infringement of Federal, State or local laws or regulations.
- F. Nothing in this license shall be construed to relieve the licensee from civil or criminal penalties for non-compliance, whether or not such non-compliance is due to factors beyond the licensee's control, such as accident, equipment breakdown, labor disputes or natural disaster.

2. Pretreatment Requirements

- A. The licensee shall comply with all Federal Statutes, regulations, and conditions of permits applicable to its discharge of waste waters, including, but not limited to, those requiring the installation of pretreatment facilities or establishment of pretreatment programs.
- B. Municipal or quasi-municipal licenses shall maintain user contracts, permits or ordinances to regulate industrial entities which discharge process waste water to the licensee's treatment facilities in quantities greater than 10 of the facility's design capacity. Such contracts, permits or ordinances shall be submitted to the Department for approval within three months of the effective date of this license or prior to acceptance of new or increased volumes of industrial waste water. All such contracts, permits or ordinances shall be an enforceable part of this license whether or not approved by the Department.

""^

3. Waste water Treatment and Sampling Facilities

- A. The licensee shall collect all waste flows designated by the Department of Environmental Protection as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- B. The licensee 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 waste waters.
- D. Final plans and specifications must be submitted to the Department of Environmental Protection and approved prior to the construction or modification of any treatment facilities.
- E. The licensee shall install flow measuring facilities of a design approved by the Department of Environmental Protection.
- F. The licensee must provide an outfall of a design approved by the Department of Environmental Protection which is placed in the receiving waters in such a manner that maximize mixing and dispersion of the waste waters will be achieved as rapidly as possible.

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4. Non-Compliance Notification

- A. In the event the licensee bypasses collection or treatment facilities or is unable to comply with any of the conditions of this license due, among other reasons, to:
- (1) breakdown of waste treatment equipment;
 - (2) accidents caused by error or negligence;
 - (3) high strength, high volume or incompatible wastes; or
 - (4) other causes such as acts of nature,
- the licensee shall notify the Department of Environmental Protection verbally as soon as its agents have knowledge of the incident.
- B. Within five (5) days of becoming aware of such condition the licensee shall provide the Department of Environmental Protection in writing, the following information:
- (1) A description of the discharge and cause of non-compliance; and
 - (2) The period of non-compliance, including exact dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the non-complying discharge.
- C. If the licensee knows in advance of changes in licensed facilities or activities which may result in non-compliance or of the need to bypass, it shall submit prior notice at least ten days in advance of such occurrence.
- D. In the event a bypass is due to inflow or infiltration of uncontaminated water into a sewer system, reporting requirements may be adjusted by the Department to a monthly basis.

5. Monitoring and Reporting

A. 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 licensee 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.

B. Test Methods

The sampling, preservation, handling, and analytical methods used must conform with Standard Methods for the Examination of Water and Waste Waters, American Public Health Association, 1015 18th Street, N.W., Washington, D.C. 20036, latest approved edition, or methods referenced in 40 CFR Part 136, Guidelines Establishing

Test Procedures for Analysis of Pollutants. However, different but equivalent methods are allowable if they receive the prior written approval from the Department of Environmental Protection.

- (1) All reports shall be submitted to the Department not later than the fifteenth of the month following the end of the monitoring period.
- (2) Any reports or records of monitoring activities and results shall include for all samples: (a) the date, exact place, and time of sampling; (b) the dates and times of analyses; (c) the analytical techniques/methods used, including sampling, handling, and preservation techniques; and (d) the results of all required analyses.

C. All reports shall be signed by:

- (1) In the case of corporations, a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the reporting form originates.
- (2) In the case of a partnership, a general partner or duly authorized representative.
- (3) In the case of a sole proprietorship, the proprietor or duly authorized representative.
- (4) In the case of a municipal, State, or other public facility, either a principal executive officer, ranking elected official, or duly authorized employee.

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6. Change of Discharge

The licensee shall notify the Department in writing as soon as it has knowledge of any significant changes or proposed changes in its discharge, including but not limited to:

- A. the temporary or permanent termination of the discharge;
- B. changes in the waste collection, treatment or disposal facilities;
- C. changes in the volume or character of waste water flows;
- D. permanent changes in industrial production rates;
- E. the proposed addition, directly or indirectly, of toxic pollutants not authorized by the license or reflected in the application filed with the Department;
- F. the addition to a municipal or quasi-municipal treatment system of industrial wastes which are categorically regulated by the U.S. EPA pursuant to the agency's pretreatment program.

7. Transfer of Ownership

In the event that any person possessing a license issued by the Department shall transfer the ownership of the property, facility or structure which is the source of a licensed discharge, without transfer of the license being approved by the Department, the license granted by the Department shall continue to authorize a discharge within the limits and subject to the terms and conditions stated in the license, provided that the parties to the transfer shall be jointly and severally liable for any violation thereof until such time as the Department approves transfer or issuance of a waste discharge license to the new owner. The Department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

8. Records Retention

All records and information resulting from the monitoring activities required by this license including all records of analyses performed and calibration and maintenance of instrumentation shall be retained for a minimum of three (3) years.

9. 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

(1) 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

(2) known to be hazardous or toxic by the licensee.

B. The discharge of such materials will not violate applicable water quality standards.

10. 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 of Environmental Protection.

11. Bypass of Waste Treatment Facilities

The diversion or bypass of any discharge from facilities utilized by the licensee to maintain compliance with the terms and conditions of this license is prohibited, except (1) where unavoidable to prevent loss of life or severe property damage, or (2) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the terms and conditions of this license. The licensee shall notify the Department of Environmental Protection of each such diversion or bypass in accordance with the procedure specified in paragraph 6 above for reporting non-compliance. It is the duty of the licensee to take all feasible steps to prevent, minimize and mitigate bypasses. If infiltration or inflow of stormwater or ground water contribute to bypasses, the licensee shall submit to the Department for approval, a wet weather flow management plan. The plan shall describe measures

implemented to maximize the volume of flow through the treatment facilities and the efficiency of the treatment process. Submission of this plan shall not remove any responsibilities of the licensee pursuant to paragraph 6.

12. Emergency Action-Electric Power Failure

Within thirty days after the effective date of this license, the licensee shall notify the Department of Environmental Protection of facilities and plans to be used in the event the primary source of power to its waste water pumping and treatment facilities fails. During power failure, all waste waters 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 waste water facilities.

DEFINITIONS

FOR THE PURPOSE OF THIS LICENSE THE FOLLOWING SHALL APPLY

- A. Grab Sample: An individual sample collected in a period of less than 15 minutes.
- B. Composite Sample: A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or a lesser period if specified in the section on Monitoring and Sampling) and combined proportional to flow or a sample continuously collected proportionally to flow over the same time period.
- C. Daily Maximum For Concentration: The maximum value not to be exceeded at any time.
- D. Daily Maximum For Quantity: The maximum value not to be exceeded during any day.
- E. Weekly or Monthly Average: The sum of all daily samples measurement or test results made during a week or month divided by the number of tests or measurement made during the respective time period. Exception: bacteriological tests shall be calculated as a geometric mean.
- F. Bypass: The diversion of waste water, either by act or by design, from any portion of a treatment facility or conveyance system.

WMUNCIPL



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

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

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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