



STATE OF MAINE
Department of Environmental Protection

Paul R. Lepage
GOVERNOR

Patricia W. Aho
COMMISSIONER

June 13, 2014

Mr. Brian Wright
The Wright Place
77 Wright Road
Clinton, Maine 04927
e-mail: thewrightplace@roadrunner.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0037125
Maine Waste Discharge License (WDL) Application #W009036-5S-B-R
Concentrated Animal Feeding Operation (CAFO)
Rogers Farm – Proposed Draft Permit/License

Dear Mr. Wright:

Enclosed is a **proposed draft** MEPDES permit and Maine WDL (permit hereinafter) which the Department proposes to issue as a final document after opportunity for your review and comment. By transmittal of this letter you are provided with an opportunity to comment on the proposed draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies, as required by our new regulations, and from any other parties who have notified the Department of their interest in this matter.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Monday, July 14, 2014**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

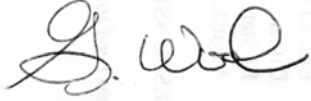
BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

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

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507

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

Sincerely,

A handwritten signature in black ink, appearing to read "G. Wood". The signature is written in a cursive style with a large initial "G" and a long, sweeping underline.

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

Enc.

cc: James Crowley, DEP/CMRO
Alex Rosenberg, USEPA
David Pincumbe, USEPA
David Webster, USEPA
Olga Vergara, USEPA
Erik Beck, USEPA
Maine Inland Fisheries & Wildlife
Maine Department of Marine Resources
Ivy Frignoca, CLF



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

DEPARTMENT ORDER

IN THE MATTER OF

THE WRIGHT PLACE LLC – ROGERS FARM)	MAINE POLLUTANT DISCHARGE
CLINTON, KENNEBEC COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
CONCENTRATED ANIMAL FEEDING OPERATION)	AND
ME0037125)	WASTE DISCHARGE LICENSE
W009036-5S-B-R)	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 ROGERS FARM (permittee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The permittee has submitted a timely and complete application to the Maine DEP for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037125/Maine Waste Discharge License (WDL) #W009036-5S-A-N that was lasted by the DEP on May 8, 2009, for a five-year term. The permit authorized the permittee to manage process waste waters and storm water runoff that is generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Clinton. The permittee is required to manage the facility such that there is no discharge of process waste waters to surface waters at precipitation events that are less than a 24-hour, 25-year storm event.

PERMIT SUMMARY

This permitting action is requiring the permittee to implement and maintain Best Management Practices (BMP's) to prevent discharges to waters of the State of Maine, and implement and keep current, an approved Nutrient Management Plan in accordance with Maine Department of Agriculture, Conservation and Forestry (DACF) regulation Chapter 565, *Nutrient Management Rules*, §6. On June 29, 2009, the DACF issued a Livestock Operation Permit (LOP) pursuant to Maine law, 7 M.R.S.A., §4204 and §4205 respectively, for the permittee's facility.

CONCLUSIONS

BASED on the findings in the attached **PROPOSED DRAFT** Fact Sheet dated June 12, 2014 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.

ACTION

THEREFORE, the DEP APPROVES the above noted application of the ROGERS FARM to discharge storm water to Twelvemile Stream, Class B, and manage process waste waters generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Clinton such that there are no discharge(s) to surface waters at precipitation events that are less than a 24-hour, 25-year storm event.. 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 becomes effective upon the date of signature below and expires at midnight five (5) after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act, 5 M.R.S.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A)* (effective April 1, 2003)].

DONE AND DATED AT AUGUSTA, MAINE, THIS DAY OF _____, 2014.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____

Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: March 4, 2014 .

Date of application acceptance: March 4, 2014 .

Date filed with Board of Environmental Protection _____

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

SPECIAL CONDITIONS

A. DEFINITIONS

1. Process-generated waste water or waste water means any waste water directly or indirectly generated or 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. Production area means that part of the facility that includes the animal confinement area. The manure storage area, the raw materials storage area and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins and areas within berms and diversions which separate uncontaminated storm water. The production area also includes the storage, handling, treatment, or disposal of mortalities.
3. Retention facilities or retention structures or waste water facilities 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.
4. Storm water means storm water runoff or snow melt runoff that does not come into contact or co-mingle with process waste water.

B. DISCHARGE LIMITATIONS/ 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 and must be included in the permittee's Nutrient Management Plan (NMP). In addition, the permittees are also required to comply with all applicable technology-based and water quality-based effluent limitations of this permit.

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS/BEST MANGEMENT PRACTICES (cont'd)

1. Technology based effluent limitations - Production Area

The permittee must implement the terms of the most current NMP approved by a certified nutrient management plan specialist including but not limited to:

- a. There may be no discharge of manure, litter, or process wastewater pollutants into waters of the State from the production area except as provide below;

Whenever precipitation causes an overflow of manure, litter or process waste waters, pollutants in the overflow may be discharged into waters of the State provided;

- b. The production area is properly designed, constructed, operated and maintained to contain all manure, litter, process wastewaters and the runoff and direct precipitation from the 24-hour, 25-year storm event that equates to 4.2 inches of rainfall. Discharges of process waste water are prohibited unless they the discharge is associated with a precipitation event that exceeds a 24-hour, 25-year storm event.
- c. The design storage volume is adequate to contain all manure, litter, and process waste water accumulated during the storage period including, at a minimum, the following;
 1. The volume of manure, litter and process wastewater, and other wastes accumulated during the storage period.
 2. Normal precipitation less evaporation during the storage period.
 3. Normal runoff during the storage period.
 4. The direct precipitation from the 24-hour, 25-year storm event.
 5. The runoff from the 24-hour, 25-year storm event from the production area.
 6. Residuals solids after liquid has been removed.
 7. Necessary freeboard to maintain structural integrity.
 8. A minimum treatment volume, in the case of treatment lagoons.
 9. Installation of a depth marker in all open surface liquid impoundments. The depth marker must clearly indicate the minimum capacity necessary to contain the runoff and direct precipitation of the 24-hour, 25-year storm event. The marker shall be visible from the top of the levee.

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS/BEST MANGEMENT PRACTICES (cont'd)

10. Weekly visible inspections of the manure, event and process wastewater impoundments noting the level as indicated by the depth marker installed in accordance with Section B(1)(c)(9) above.
 11. Daily inspections of all water lines, including drinking water and cooling lines.
 12. Timely correction of any deficiencies that are identified in daily and weekly inspections.
2. Additional measures applicable to the production area.
- a. Ensure adequate storage of manure, litter, and process wastewaters, including procedures to ensure proper operation and maintenance of the storage facilities. - 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. Implement an operation and maintenance program that involves periodic visual inspection and maintenance of all manure storage and handling equipment and structures and all runoff management devices (e.g., cleaning separators, barnyards, catch basins, screens, annual calibration of land application equipment, maintenance of filter strips). These activities will minimize the possibility of discharges of pollutants to surface waters of the State of Maine.
 - b. Handle and dispose of dead animals in a manner that prevents contamination of surface waters and ground waters of the State of Maine and complies with DACF Chapter 211 rules for the disposal of animal carcasses.
 - c. Ensure that clean water is diverted, as appropriate and the fullest extent practicable, from the production area. Clean water includes, but is not limited to, rain falling on the roofs of facilities and runoff from adjacent land. Any clean water that is not diverted and comes into contact with raw materials, products or by-products including manure, litter, process waste water, feed, milk or bedding materials is subject to effluent limitations in Section B(1) of this permit. Where clean water is not diverted, the permittee must document that it has been accounted for in meeting the requirement to ensure adequate storage capacity as a condition of this permit.

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS/BEST MANAGEMENT PRACTICES (cont'd)

- d. Prevent direct contact of confined animals with waters of the State.
 - e. Prevent direct introduction of chemicals into manure and waste water storage structures for purposes of disposal. Examples include pesticides, hazardous and toxic chemicals, and petroleum products/by-products.
3. Technology based limits – Land application areas
- a. Permittees that apply manure, litter or process wastewater to land under the permitted CAFO's ownership or operational control must implement the terms and conditions of the NMP as specified below. The NMP must be developed in accordance with the following requirements.
 1. Determination of application rates – Application rates for manure, litter or process wastewater must minimize phosphorus and nitrogen transport from the fields to surface waters in compliance with technical standards for nutrient management established by DACF in Chapter 565, Nutrient Management Rules.
 2. Manure and soil sampling – Manure must be analyzed at least once annually for nitrogen and phosphorus content. Soil must be analyzed at least once every five years. The results of the analyses must be used in the determining application rates for manure, litter and process waste water.
 3. Inspection of land application equipment – Equipment used for land application of manure, litter or process wastewater must be periodically inspected for leaks. Any identified leaks must be repaired prior to the next use of the equipment.
 4. Land application setback requirements - Provide and maintain buffer strips or other equivalent practices around 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.
 5. Record Keeping Requirements – Complete on-site records including the site specific NMP requirements must be maintained to document implementation of all required land application practices.

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS/BEST MANAGEMENT PRACTICES (cont'd)

6. Prohibitions – There shall be no direct discharge of manure, litter or process wastewater to waters of the State as a result of manure, litter or process wastewater application to land areas under the control of the permittee, except where it is agricultural storm water runoff. Where manure, litter or process wastewater has been applied in accordance with the terms and conditions of the NMP, a precipitation related discharge of manure, litter or process wastewater from land areas under the control of the permittee is considered to be an agricultural storm water discharge.
7. Discharge(s) of storm water shall;
 - a. Not result in a visible oil sheen, foam or floating solids in the receiving waters at any time which would impair the usages designated for 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 for the classification of the receiving waters.
 - c. Not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated for the classification of the receiving waters.
 - d. Notwithstanding specific conditions of this permit, 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.
4. Additional measures applicable to all CAFO's
 - a. Records – Identify specific records that will be maintained to document the implementation and management of Section B(1)(c)(1-12) of this permit.
 - b. Transfer of manure – In cases where CAFO-generated manure, litter or process wastewater is sold or given away, the permittee must comply with the following conditions:
 1. Maintain records showing the date and amount of manure, litter or process wastewater that leaves the facility.
 2. Record the name and address of the recipient.

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS/BEST MANAGEMENT PRACTICES (cont'd)

3. Document that the recipient's was provided with representative information on the nutrient content of the manure, litter or process wastewater.
4. The records must be retained on-site for a period of five-years and be submitted to the DEP or EPA upon request.
5. Notification of discharge(s):

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

- a. Description of the discharge: A description and cause of the discharge, including a description of the flow path to the receiving water body and an estimation of the flow and volume discharged.
- b. Time of the discharge: The period of discharge, including exact dates and times, and the anticipated time the discharge is expected to continue.
- c. Cause of the discharge: If caused by precipitation event(s), information from the onsite rain gauge required by Special Condition D(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 DACF (contacts below) within 24-hours of the facility discharge. Written notification including the information required above must be received by the Maine DEP and DACF within five (5) calendar days of the discharge.

Maine Department of Agriculture, Conservation and Forestry
Division of Animal & Plant Health
Attn: Nutrient Management Program Manager
28 State House Station
Augusta, Maine 04333-0028

Telephone: (207)-287-7608

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS/BEST MANAGEMENT PRACTICES (cont'd)

Maine Department of Environmental Protection
Attn: CAFO Compliance Inspector
Bureau of Land & Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333 Telephone: (207) 287-3901

6. Monitoring requirements for process water discharges: In the event of an overflow (or pre-planned emergency discharge) or any other discharge from storage tanks, storage bunkers, retention structures and other waste water storage structures or feed storage operations, the following actions shall be taken:

- a. Analysis of the discharge: All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters:

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

- b. Sampling procedures: Samples shall consist of grab samples collected from the overflow or discharges from the retention structure. A minimum of one sample shall be collected from the initial discharge (within 30 minutes or upon discovery). The sample shall be collected and analyzed in accordance with EPA approved methods for water analysis listed in 40 CFR 136. Samples collected for the purpose of monitoring shall be representative of the monitored discharge. If more than one sample is collected during the discharge, the samples may be composited (with the exception of pH and fecal coliform bacteria) when analyzed for the parameters in Special Condition B(6)(a) above. Monitoring results must be submitted to the DACF and DEP at the addresses in Special Condition B(5)(e) of this permit within 30 days of the discharge event.

C. NUTRIENT MANAGEMENT PLAN

Upon issuance of this permit, the permittee is required to maintain and implement a Nutrient Management Plan prepared in accordance with the standards in Maine's DACF regulation, Chapter 565, §6 and federal regulation 40 CFR, §122.42(e) and 40 CFR §412.4. 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

C. NUTRIENT MANAGEMENT PLAN (cont'd)

- 1) **Terms of the nutrient management plan** - The terms of the nutrient management plan are the information, protocols, best management practices, and other conditions in the nutrient management plan determined to be necessary to meet the requirements of this section. The terms of the nutrient management plan, with respect to protocols for land application of manure, litter, or process wastewater must include the fields available for land application; field-specific rates of application properly developed to ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and any timing limitations identified in the nutrient management plan concerning land application on the fields available for land application. The terms must address rates of application using one of the following two approaches:
 - (a) **Linear approach.** An approach that expresses rates of application as pounds of nitrogen and phosphorus, according to the following specifications:
 - (1) The terms include maximum application rates from manure, litter, and process wastewater for each year of permit coverage, for each crop identified in the nutrient management plan, in chemical forms in pounds per acre, per year, for each field to be used for land application, and certain factors necessary to determine such rates. At a minimum, the factors that are terms must include: The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field; the crops to be planted in each field or any other uses of a field such as pasture or fallow fields; the realistic yield goal for each crop or use identified for each field; the nitrogen and phosphorus recommendations for each crop or use identified for each field; credits for all nitrogen in the field that will be plant available; consideration of multi-year phosphorus application; and accounting for all other additions of plant available nitrogen and phosphorus to the field. In addition, the terms include the form and source of manure, litter, and process wastewater to be land-applied; the timing and method of land application; and the methodology by which the nutrient management plan accounts for the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.
 - (2) Large CAFOs that use this approach must calculate the maximum amount of manure, litter, and process wastewater to be land applied at least once each year using the results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application; or

SPECIAL CONDITIONS

C. NUTRIENT MANAGEMENT PLAN (cont'd)

- (b) **Narrative rate approach.** An approach that expresses rates of application as a narrative rate of application that results in the amount, in tons or gallons, of manure, litter, and process wastewater to be land applied, according to the following specifications:
- (1) The terms include maximum amounts of nitrogen and phosphorus derived from all sources of nutrients, for each crop identified in the nutrient management plan, in chemical forms in pounds per acre, for each field, and certain factors necessary to determine such amounts. At a minimum, the factors that are terms must include: the outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field; the crops to be planted in each field or any other uses such as pasture or fallow fields, the realistic yield goal for each crop or use identified for each field; and the nitrogen and phosphorus recommendations for each crop or use identified for each field. In addition, the terms include the methodology by which the nutrient management plan accounts for the following factors when calculating the amounts of manure, litter, and process wastewater to be land applied: results of soil tests conducted in accordance with protocols identified in the nutrient management plan; credits for all nitrogen in the field that will be plant available; the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; the form and source of manure, litter, and process wastewater; the timing and method of land application; and volatilization of nitrogen and mineralization of organic nitrogen.
 - (2) The terms of the nutrient management plan include alternative crops identified in the CAFO's nutrient management plan that are not in the planned crop rotation. Where a CAFO includes alternative crops in its nutrient management plan, the crops must be listed by field, in addition to the crops identified in the planned crop rotation for that field, and the nutrient management plan must include realistic crop yield goals and the nitrogen and phosphorus recommendations for each crop. Maximum amounts of nitrogen and phosphorus from all sources of nutrients and the amounts of manure, litter, and process wastewater to be applied must be determined in accordance with the methodology described in paragraph C(1)(b)(1) of this section.

SPECIAL CONDITIONS

C. NUTRIENT MANAGEMENT PLAN (cont'd)

- (3) For CAFOs using this approach, the following projections must be included in the nutrient management plan submitted to the Department and DACF, but are not terms of the nutrient management plan: The CAFO's planned crop rotations for each field for the period of permit coverage; the projected amount of manure, litter, or process wastewater to be applied; projected credits for all nitrogen in the field that will be plant available; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; and the predicted form, source, and method of application of manure, litter, and process wastewater for each crop. Timing of application for each field, insofar as it concerns the calculation of rates of application, is not a term of the nutrient management plan.
- (4) CAFOs that use this approach must calculate maximum amounts of manure, litter, and process wastewater to be land applied at least once each year using the methodology required in paragraph C(1)(b)(1) of this section before land applying manure, litter, and process wastewater and must rely on the following data:
 - (a) A field-specific determination of soil levels of nitrogen and phosphorus, including, for nitrogen, a concurrent determination of nitrogen that will be plant available consistent with the methodology required by paragraph C(1)(b)(1) of this section, and for phosphorus, the results of the most recent soil test conducted in accordance with soil testing requirements; and
 - (b) The results of most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application, in order to determine the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

Any changes to the NMP made after the date of signature of this permit must be submitted to the Maine DEP and DACF contacts in Special Condition B(5)(e) of this permit for review to determine whether the changes are substantial and whether the changes necessitate revisions to terms and or conditions of this permit. If revisions to the permit are necessary, this permit will be re-opened pursuant to Special Condition G, *Reopening of Permit For Modifications*, to incorporate applicable terms and conditions.

SPECIAL CONDITIONS

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

SPECIAL CONDITIONS

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

7. Additional Monitoring Requirements

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

E. ANNUAL REPORTING REQUIREMENTS

1. **On or before December 31st of each year (*ICIS code PR003*)** the permittee must submit [to the addresses in Section B(5)(e)] an annual report to the DEP and DACF that at a minimum, includes the following information;
 - a. The number and type of animals, whether in open confinement or housed under roof.
 - b. Estimated amount of total manure, litter and process waste water generated by the CAFO in the previous 12 months (tons/gallons).
 - c. Estimated amount of total manure, litter and process waste water transferred to others persons by the CAFO in the previous 12 months (tons/gallons).
 - d. Total number of acres of land application covered by the NMP.
 - e. Total number of acres under the control of the permittee that were used for land application of manure, litter and process wastewater in the previous 12 months.
 - f. Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months including date, time, and approximate volume.
 - g. A statement indicating whether the current version of the CAFO NMP was developed by a certified nutrient management planner.
 - h. Actual crops planted and actual yields of each field for the preceding 12 months.
 - i. Results of all samples of manure, litter and process wastewater for nitrogen and phosphorus content for manure, litter and process wastewater that was land applied.

SPECIAL CONDITIONS

E. ANNUAL REPORTING REQUIREMENTS (cont'd)

- j. Results of calculations conducted in accordance with Linear Approach or Narrative Rate Approach.
- k. Amount of manure, litter and process wastewater applied to each field during the preceding 12 months.

F. FACILITY CLOSURE

The following conditions shall apply to the closure of lagoons and other earthen or synthetic lined basins and manure, litter and process wastewater storage and handling structures:

- a. Closure of Lagoons and Other Surface Impoundments
 - 1. No lagoon or other earthen or synthetic lined basin shall be permanently abandoned.
 - 2. Lagoons or other earthen or synthetic lined basins shall be maintained at all times until closed in compliance with this section.
 - 3. All lagoons or other earthen or synthetic lined basins must be properly closed if the permittee ceases operation. In addition, any lagoon or other earthen or synthetic lined basin that is not in use for a period of 12 consecutive months must be properly closed unless the facility is financially viable, intends to resume use of the structure at a later date, and either 1) maintains the structure as though it were actively in use, to prevent compromise of structural integrity; or 2) removes manure and wastewater to a depth of one foot or less and refills the structure with clean water to preserve the integrity of the synthetic or earthen liner. In either case, the permittee shall notify the DEP and DACF of the action taken and shall conduct routine inspections, maintenance and record keeping as though the structure were in use. Before restoration or use of the structure, the permittee shall notify the DEP and DACF and provide the opportunity for inspection.
 - 4. All closures of lagoons and other earthen or synthetic basins must be consistent 06-096 CMR Chapter 550, Discontinuance of Wastewater Treatment Lagoons. Consistent with that standard, the permittee shall remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's NMP, unless otherwise authorized by the DEP and DACF

SPECIAL CONDITIONS

F. FACILITY CLOSURE (cont'd)

5. Unless otherwise authorized by the DEP or USEPA, completion of the closure of the lagoon(s) and other earthen or synthetic lined basins shall occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, 12 months from the date on which the use of the structure ceased, unless the lagoons or basins are being maintained for possible future use in accordance with the requirements above.
- b. Closure Procedures for Other Manure, Litter or Process Wastewater Storage and Handling Structures
 1. No other manure, litter or process wastewater storage and handling structure shall be abandoned. Closure of all such structures shall occur as promptly as practicable after the permittee has ceased to operate, or, if the permittee has not ceased to operate, with 12 months after the date on which the use of the structure ceased. To close a manure, litter or process wastewater storage and handling structure, the permittee shall remove all manure, litter, or process wastewater and dispose of it in accordance with the permittee's NMP, or document its transfer from the permittee's facility in accordance with off-site transfer requirements specified in this permit, unless otherwise authorized by the DEP and DACF.

G. 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.

H. 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 remain in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **June 12, 2014**

PERMIT NUMBER: **ME0037125**
LICENSE NUMBER: **W009036-5S-B-R**

NAME AND ADDRESS OF APPLICANT:

**ROGERS FARM
c/o The Wright Place
77 Wright Road
Clinton, Maine 04927**

COUNTY: **Kennebec County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Rogers Road
Clinton, Maine 04927**

RECEIVING WATER/CLASSIFICATION: **Twelvemile Stream, Class B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Brian Wright
(207) 426-9697**
e-mail: thewrightplace@roadrunner.com

1. APPLICATION SUMMARY

- a. Application: Wright Place LLC (permittee hereinafter) has submitted a timely and complete application to the Maine Department of Environmental Protection (DEP) for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0037125/Maine Waste Discharge License (WDL) #W009036-5S-A-N that was lasted by the DEP on May 8, 2009, for a five-year term. The permit authorized the permittee to manage process waste waters and storm water runoff that is generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Clinton. The permittee is required to manage the facility such that there is no discharge of process waste waters to surface waters at precipitation events that are less than a 24-hour, 25-year storm event. See **Attachment A** of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description – The Rogers Farm has been identified as a medium CAFO as the facility has approximately 650 heifers 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 numerous large barns with open-air side walls and fully covered with roofs. All storm water runoff and waste waters generated in the vicinity of the barns and milking parlor are directed to a National Resource Conservation Service (NRCS) designed manure waste storage facility. The manure pit is an earthen bermed structure that has a total capacity of approximately 417,000 cubic feet (cf) for 180 days of storage. The working capacity of the pit takes into consideration annual precipitation, evaporation, a 24-hour 25-year storm events and the ability to maintain at least 1.0 feet of freeboard. See **Attachment B** of this fact Sheet for a layout of the farm.

Inspections by DACF, DEP and the USEPA indicates storm water runoff is conveyed to Twelvemile stream via a drainage swale that meanders through a pasture between the storage pit and heifer barn. Twelvemile Stream is located approximately 200 feet east of the heifer barn. The DACF has made a determination that the manure storage facility is designed and capable of capturing a 25 year, 24-hour rainfall event. Manure is spread on various fields owned and or leased by The Wright Place or the Rogers Farm as permitted by the Nutrient Management Law.

2. PERMIT SUMMARY

- a. Permit Summary: This permitting action is requiring the permittee to develop and implement a Nutrient Management Plan and obtain a Livestock Operation Permit (LOP) pursuant to Maine law, 7 M.R.S.A., §4204 and §4205 respectively, and in accordance with Maine Department of Agriculture, Conservation and Forestry (DACF) regulation Chapter 565, *Nutrient Management Rules*, §6 and §8 respectively.
- 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 DACF adopted regulation Chapter 565, *Nutrient Management Rules*. It is noted the regulation was last amended on February 17, 2001.

2. APPLICATION SUMMARY (cont'd)

June 8, 2000 – The Maine DEP and DACF 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 DACF so as to better coordinate review of CAFO's, and 2) clarify the roles and responsibilities of the two agencies in regard to the permitting of CAFO's under DACF Livestock Operating Permit (LOP) program and DEP's MEPDES permit program.

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

November 25, 2005 – Personnel from Maine DACF, Maine DEP and the EPA conducted an on-site inspection at the Rogers Farm. The primary objective of the site inspection was to determine whether the farm is considered a CAFO pursuant to Department rule Chapter 521, *Applications For Waste Discharge Licenses*, §6. The inspection determined that the farm was a medium CAFO that required a MEPDES permit.

February 2, 2009 – The Rogers Farm submitted an application to the DEP and DACF for a new MEPDES permit and LOP. The application materials contained a Nutrient Management Plan “NMP” prepared by a certified planner. The NMP is being reviewed by the DACF for approval.

May 8, 2009 – The Department issued MEPDES permit #ME0037125/WDL W009036-5S-A-N for a five-year term.

3. CONDITIONS OF PERMITS

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

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A. §467(4)(I) states that Twelvemile Stream is classified as a Class B waterbody. Maine law, 38 M.R.S.A. §465(3) contains the classification standards for Class B waters as follows;

Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired.

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

Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community.

5. RECEIVING WATER QUALITY CONDITIONS

The 2012 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, indicates Twelvemile Stream is meeting Class B water quality standards pursuant to Maine law 38 M.R.S.A. §465(3).

6. APPLICABLE LAWS, RULES AND/OR REGULATIONS

- a. Pursuant to Section 502(14) of the federal Water Pollution Control Act (Clean Water Act), CAFO's are defined as point source dischargers.
- b. Maine law 38 M.R.S.A. §413 states that "No person may directly or indirectly discharge or have cause to be discharged any pollutant without first obtaining a license therefor from the Department."

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

- c. Maine DEP rule, Chapter 521, *Applications For Waste Discharge Licenses*, §6(a) states “Permit requirement. Concentrated animal feeding operations are point sources subject to the NPDES permit program. The Department will consult with the Department of Agriculture and all applications for concentrated animal feeding operations in order to consolidate permitting requirements where feasible.” It is noted the rule references federal regulations found at 40 CFR Part 122.23 requiring CAFO’s to obtain a federal NPDES permit. However, given that the USEPA has authorized the State of Maine to administer the NPDES permit program in Maine, MEPDES permits will be issued to CAFO’s.

Maine DEP Chapter 521, §6(b)(3)-Appendix B establishes the criteria for determining a CAFO. The Rogers Farm is categorically considered a medium CAFO as the facility has approximately 650 heifers 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.

- d. Federal regulation 40 CFR Part 412 – *Feedlots Point Source Category*, establishes effluent limitations and guidelines representing best practicable control technology currently available (BPT) and best available technology economically achievable (BAT). BPT and BAT for CAFO’s is no discharge of process waste water pollutants to navigable waters where process waste waters are defined as any process generated waste and any precipitation (rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (e.g. milk, eggs).
- e. Maine law, 7 M.R.S.A, §4204(H)(2) establishes the criteria for who must develop and implement a Nutrient Management Plan. CAFO’s 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 Operating Permit (LOP). Maine DACF 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 DACF.

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 DACF 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 the surface water bodies to meet standards for Class B classification.

9. PUBLIC COMMENTS

Public notice of this application was made in the Morning Sentinel newspaper on or about March 1, 2014. 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:

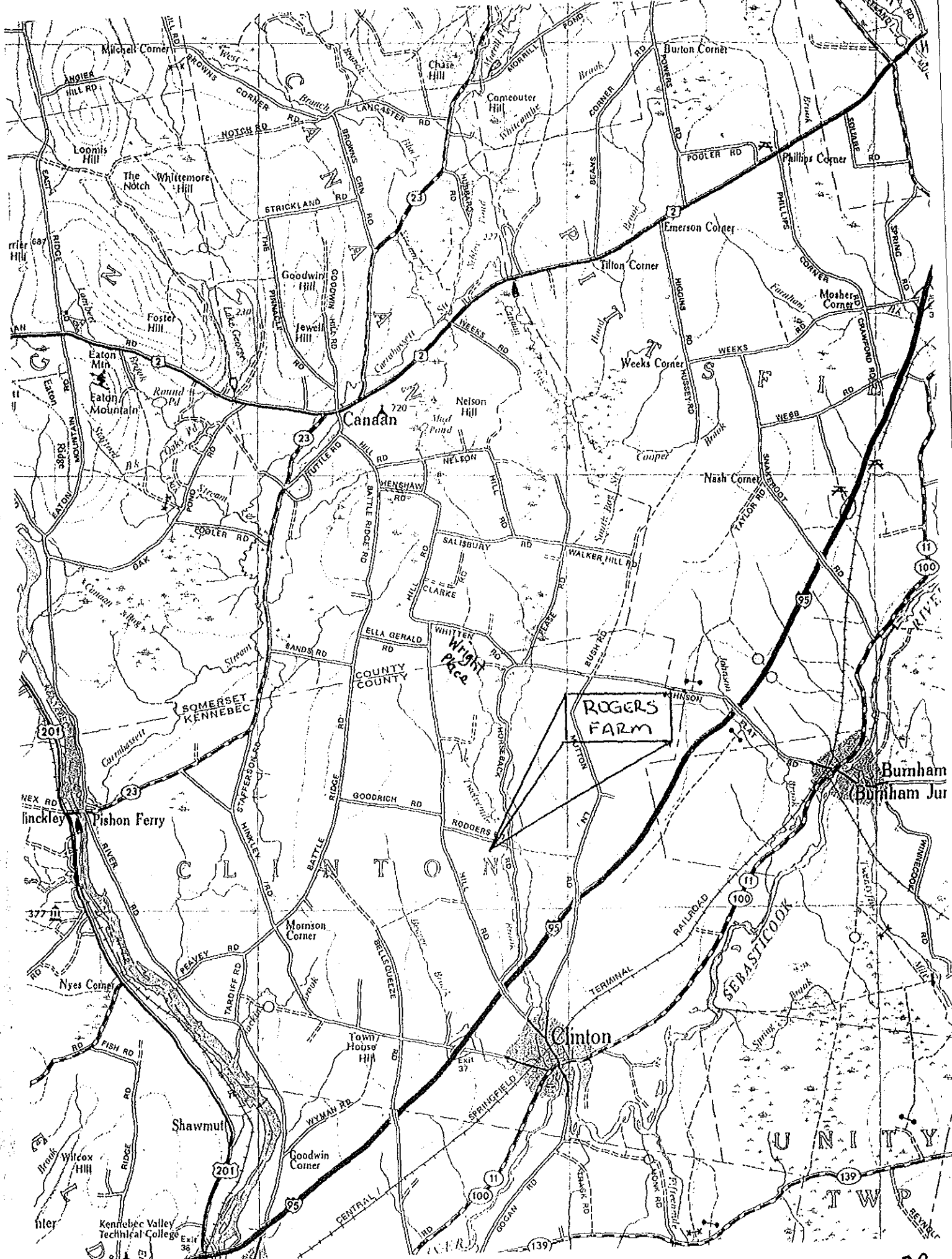
Maine Department of Agriculture, Conservation and Forestry
Division of Animal and Plant Health
Attn: Nutrient Management Program Manager
28 State House Station
Augusta, Maine 04333-0028 Telephone: (207)-287-7608

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

Reserved until the close of the formal 30-day public comment period.

ATTACHMENT A



ATTACHMENT B

The Rogers Farm

