



STATE OF MAINE  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PAUL MERCER  
COMMISSIONER

October 30, 2018

Looks Gourmet Food Company, Inc.  
Attn: Cynthia Fisher  
1112 Cutler Road  
Whiting, ME. 04691  
[cfisher@barharborfoods.com](mailto:cfisher@barharborfoods.com)

*Sent via electronic mail  
Delivery confirmation requested*

**RE:** *Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0037486  
Maine Waste Discharge License (WDL) Application #W009191-5P-N  
Proposed Draft MEPDES Permit - Renewal*

Dear Ms. Fisher:

Attached is a proposed draft MEPDES permit and Maine WDL which the Department proposes to issue for your facility 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 special and standard conditions. 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 and from any other parties who have notified the Department of their interest in this matter.

The comment period begins on October 30, 2018 and ends on November 30, 2018. All comments on the proposed draft permit must be received in the Department of Environmental Protection office on or before the close of business Friday, November 30, 2018. Failure to submit comments in a timely fashion will result in the proposed draft/license permit document being issued as drafted.

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

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

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

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

Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection  
Bureau of Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, ME 04333-0017  
[Cindy.L.Dionne@maine.gov](mailto:Cindy.L.Dionne@maine.gov)

If you have any questions regarding the matter, please feel free to contact me.

Sincerely,



Cindy L. Dionne  
Division of Water Quality Management  
Bureau of Water Quality  
ph: 207-287-7823

Enc.

cc: Barry Mower, DEP  
Pamela Parker, DEP  
Mike Loughlin, DEP  
Lori Mitchell, DEP  
Jay Clement, ACOE  
Sean Mahoney, CLF  
Kathleen Leyden, DACF  
Environmental Review, DMR  
Ellen Weitzler, USEPA  
Alex Rosenberg, USEPA  
Solanch Pastrana-Del Valle, USEPA  
Marelyn Vega, USEPA  
Richard Carvalho, USEPA  
Shelley Puleo, USEPA  
Kirk F. Mohny, MHPC  
Dale Mitchell, Passamaquoddy Tribe-Pleasant Point  
Anna Harris, USFWS



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

DEPARTMENT ORDER

IN THE MATTER OF

LOOKS GOURMET FOOD COMPANY, INC.	)	MAINE POLLUTANT DISCHARGE
WHITING, WASHINGTON COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
SHELLFISH PROCESSING FACILITY	)	AND
ME0037486	)	WASTE DISCHARGE LICENSE
W009191-5P-A-N	)	NEW
APPROVAL	)	

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

**APPLICATION SUMMARY**

On July 16, 2018, the Department accepted as complete for processing, a new application from Looks for the combined discharge of 13,000 gallons per day (gpd) of wastewater associated with the processing of raw or frozen seafood into canned chopped clams, clam juice, and lobster bisque from two outfalls (Outfall 001 and Outfall 002). The application was assigned Waste Discharge License (WDL) W009191-5P-A-N/Maine Pollutant Discharge Elimination System (MEPDES) permit ME0037486.

This permit authorizes Looks to discharge 13,000 gpd of treated seafood processing wastewater to the tidewaters of Holmes Bay, Class SB in Whiting, Maine. Sanitary wastewater is disposed of in an on-site subsurface wastewater disposal system.

**PERMIT SUMMARY**

This permitting action establishes limits for biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), oil and grease (O & G), and pH based on National Effluent Guidelines (NEGs) derived from 40 CFR §408.235, specific to hand-shucked clam processing facilities. This permitting action also establishes a daily maximum flow limit, a daily maximum total residual chlorine (TRC) limit, as well as a monthly reporting requirement for production levels.

## CONCLUSIONS

Based on the findings summarized in the attached and incorporated Fact Sheet dated October 30, 2018, and subject to the special and standard conditions that follow, the Department makes the following CONCLUSIONS:

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

**ACTION**

THEREFORE, the Department APPROVES the above noted application of LOOKS GOURMET FOOD COMPANY, INC., to discharge a daily maximum of 13,000 gallons per day of treated seafood processing wastewater and facility clean up water to the tidewaters of Holmes Bay, Class SB in Whiting, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended June 9, 2018)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2018.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
PAUL MERCER, Commissioner

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

Date of initial receipt of application: July 16, 2018

Date of application acceptance: July 16, 2018

This Order prepared by Cindy L. Dionne, BUREAU OF WATER QUALITY

**SPECIAL CONDITIONS**

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

- Beginning the effective date of the permit, the permittee is authorized to discharge treated **CLAM** processing and facility clean-up wastewater to the tidewaters of Holmes Bay via **OUTFALL #001**. Discharges via Outfall #001 are limited and monitored by the permittee as specified below<sup>(1)(2)</sup>.

<u><b>Effluent Characteristic</b></u>	<u><b>Discharge Limitations</b></u>				<u><b>Monitoring Requirement</b></u>	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	Report GPD <sup>(3)</sup> [07]	8,000 GPD [07]	---	---	1/Month [01/30]	Measure [MS]
BOD <sub>5</sub> [00310]	11 lbs./day [26]	18 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	1/Month [01/30]	Grab [GR]
TSS [00530]	40 lbs./day [26]	89 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	1/Month [01/30]	Grab [GR]
Oil & Grease [03582]	0.2 lbs./day [26]	0.6 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	1/Month [01/30]	Grab [GR]
Production <sup>(4)</sup> [00145]	Report lbs./day [26]	Report lbs./day [26]	---	---	1/Day [01/01]	Measure [MS]
pH (Std. Units) [00400]	The pH must not be less than 6.0 or greater than 9.0 at any time.				1/Month [01/30]	Grab [GR]
TRC [50060]	---	---	0.0075 mg/L [19]	0.013 mg/L [19]	1/Day <sup>(5)</sup> [01/01]	Grab [GR]

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

**FOOTNOTES:** See **Page 6** of this permit for applicable footnotes.

## SPECIAL CONDITIONS

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

2. Beginning the effective date of the permit, the permittee is authorized to discharge treated **CLAM** processing and facility clean-up wastewater to the tidewaters of Holmes Bay via **OUTFALL #002**. Discharges via Outfall #002 are limited and monitored by the permittee as specified below<sup>(1)(2)</sup>.

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirement</u>	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	Report GPD <sup>(3)</sup> [07]	5,000 GPD [07]	---	---	1/Month [01/30]	Measure [MS]
BOD <sub>5</sub> [00310]	11 lbs./day [26]	18 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	1/Month [01/30]	Grab [GR]
TSS [00530]	40 lbs./day [26]	89 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	1/Month [01/30]	Grab [GR]
Oil & Grease [03582]	0.2 lbs./day [26]	0.6 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	1/Month [01/30]	Grab [GR]
Production <sup>(4)</sup> [00145]	Report lbs./day [26]	Report lbs./day [26]	---	---	1/Day [01/01]	Measure [MS]
pH (Std. Units) [00400]	The pH must not be less than 6.0 or greater than 9.0 at any time.				1/Month [01/30]	Grab [GR]
TRC [50060]	---	---	0.0075 mg/L [19]	0.013 mg/L [19]	1/Day <sup>(5)</sup> [01/01]	Grab [GR]

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

**FOOTNOTES:** See **Page 6** of this permit for applicable footnotes.

## **SPECIAL CONDITIONS**

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

#### **FOOTNOTES**

- 1. Sampling** – Any change in sampling location must be approved by the Department in writing. The permittee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR.
- 2. Outfall #001 & Outfall #002** – Both outfalls may be used individually or simultaneously, however, at no time may the discharge exceed the limits in the table. As an example, if both outfalls are discharging, the collective BOD<sub>5</sub> value cannot exceed 11 lbs./day for the monthly average.
- 3. Flow** – Monthly average flow must be calculated as follows: The total gallons discharged during the calendar month divided by the number of days in the month that the facility was operating.
- 4. Production** – Gross weight of pounds of raw material (clams) in the form in which it is received at the processing plant to be processed on any given day.
- 5. Total Residual Chlorine** – Monitoring for TRC is required if a chlorine-based or sodium hypochlorite-based compound is used for sanitization purposes. When these compounds have not been used for an entire reporting period, the permittee must enter "NODI-9" on the monthly DMR. The permittee must utilize a USEPA-approved test method capable of bracketing the TRC limitations specified in this permitting action. Compliance will be based on the USEPA's minimum level of detection of 0.02 mg/L. Monitoring results that are detected below 0.02 mg/L must be reported as <0.02 mg/L on the monthly DMR.

*This space intentionally left blank.*



## **B. NARRATIVE EFFLUENT LIMITATIONS**

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the uses designated by the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated by the classification of the receiving waters.
3. The permittee must not discharge effluent that imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsafe for the designated uses and characteristics ascribed to their classification.
4. The permittee must not discharge effluent that lowers 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.

## **C. AUTHORIZED DISCHARGES**

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on July 16, 2018; 2) the terms and conditions of this permit; and 3) only from Outfalls #001 and #002. Discharges of wastewater from any other point source(s) are not authorized under this permit, and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting*, of this permit.

## **D. NOTIFICATION REQUIREMENT**

In accordance with Standard Condition D, the permittee must notify the Department of the following:

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

## **SPECIAL CONDITIONS**

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

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

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

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

### **F. MONITORING AND REPORTING**

#### Electronic Reporting

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

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

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

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

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

## **SPECIAL CONDITIONS**

### **G. REOPENING OF PERMIT FOR MODIFICATION**

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

### **H. SEVERABILITY**

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**A. GENERAL PROVISIONS**

**1. General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

**2. Other materials.** Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- (a) They are not
  - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
  - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

**3. Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**4. Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**5. Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**6. Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**7. Oil and hazardous substances.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

**8. Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

**9. Confidentiality of records.** 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

**10. Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

**11. Other laws.** The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

**12. Inspection and entry.** The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

## **B. OPERATION AND MAINTENANCE OF FACILITIES**

### **1. General facility requirements.**

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
  - (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
  - (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
  - (e) The permittee shall install flow measuring facilities of a design approved by the Department.
  - (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

**2. Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**3. Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**4. Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

### **5. Bypasses.**

- (a) Definitions.
  - (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
  - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c) Notice.
  - (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
  - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (C) The permittee submitted notices as required under paragraph (c) of this section.
  - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

**6. Upsets.**

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (ii) The permitted facility was at the time being properly operated; and
  - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
  - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**C. MONITORING AND RECORDS**

**1. General Requirements.** This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

**2. Representative sampling.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

**3. Monitoring and records.**

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed;
  - (iv) The individual(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- (ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

- (A) Any unanticipated bypass which exceeds any effluent limitation in the permit.

- (B) Any upset which exceeds any effluent limitation in the permit.

- (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

- (iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

- (g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

- (h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**2. Signatory requirement.** All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**3. Availability of reports.** Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

**4. Existing manufacturing, commercial, mining, and silvicultural dischargers.** In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

- (a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) One hundred micrograms per liter (100 ug/l);

- (ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

- (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (i) Five hundred micrograms per liter (500 ug/l);
  - (ii) One milligram per liter (1 mg/l) for antimony;
  - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

#### **5. Publicly owned treatment works.**

- (a) All POTWs must provide adequate notice to the Department of the following:
  - (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
  - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

#### **E. OTHER REQUIREMENTS**

**1. Emergency action - power failure.** Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**2. Spill prevention.** (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

**3. Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

**4. Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

**F. DEFINITIONS.** For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

**Average** means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

**Average monthly discharge limitation** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

**Average weekly discharge limitation** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best management practices ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Composite sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

**Continuous discharge** means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**Daily discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**Discharge Monitoring Report ("DMR")** means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

**Flow weighted composite sample** means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

**Grab sample** means an individual sample collected in a period of less than 15 minutes.

**Interference** means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

**Maximum daily discharge limitation** means the highest allowable daily discharge.

**New source** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

**Pass through** means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

**Permit** means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

**Person** means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

# MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**Point source** means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

**Pollutant** means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Process wastewater** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

**Publicly owned treatment works ("POTW")** means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

**Septage** means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

**Time weighted composite** means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

**Toxic pollutant** includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

**Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Whole effluent toxicity** means the aggregate toxic effect of an effluent measured directly by a toxicity test.

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
MAINE WASTE DISCHARGE LICENSE**

**FACT SHEET**

DATE: **October 30, 2018**

PERMIT NUMBER: **ME0037486**  
WASTE DISCHARGE LICENSE: **W009191-5P-A-N**

NAME AND ADDRESS OF APPLICANT: **LOOKS REAL ESTATE HOLDINGS, LLC.  
8978 GLEBE PARK DRIVE  
EASTON, MD. 21601**

COUNTY: **WASHINGTON COUNTY**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):  
**LOOKS GOURMET FOOD COMPANY, INC.  
1112 CUTLER ROAD  
WHITING, ME 04691**

RECEIVING WATER CLASSIFICATION: **TIDEWATERS OF HOLMES BAY, CLASS SB**

COGNIZANT OFFICIAL CONTACT INFORMATION:  
**Cynthia Fisher**  
**(207) 263-5361**  
[cfisher@barharborfoods.com](mailto:cfisher@barharborfoods.com)

**1. APPLICATION SUMMARY**

On July 16, 2018, the Department of Environmental Protection (DEP) accepted as complete for processing, a new application from Looks Gourmet Food Company, Inc. (Looks/permittee) for the combined discharge of 13,000 gallons per day (gpd) of wastewater associated with the processing of raw or frozen seafood into canned chopped clams, clam juice, and lobster bisque from two outfalls (Outfall 001 and Outfall 002). The application was assigned Waste Discharge License (WDL) W009191-5P-A-N/Maine Pollutant Discharge Elimination System (MEPDES) permit ME0037486.

This permit authorizes Looks to discharge 13,000 gpd of treated seafood processing wastewater to the tidewaters of Holmes Bay, Class SB in Whiting, Maine. Sanitary wastewater is disposed of in an on-site subsurface wastewater disposal system.



## 2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action establishes limits for biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), oil and grease (O & G), and pH based on National Effluent Guidelines (NEGs) derived from 40 CFR §408.235, specific to hand-shucked clam processing facilities. This permitting action also establishes a daily maximum flow limit, a daily maximum total residual chlorine (TRC) limit, as well as a monthly reporting requirement for production levels.
- b. History: This section provides a summary of significant licensing actions and milestones that have been completed for the permittee.

*July 16, 2018* – The permittee submits a new application for the discharge of 13,000 gpd of wastewater associated with clam processing. The Department assigned WDL #W009191-5P-A-N /MEPDES #ME0037486.

- c. Source Description: The facility processes raw/frozen seafood into canned chopped clams, clam juice, and lobster bisque. The permittee has indicated that canned chopped clams, clam juice, and lobster bisque are processed and cooked in 180-gallon stainless steel kettles, year-round. A maximum of 8,000 gpd of wastewater is generated from the seafood canning process and the sanitation of the kettles. The wastewater is treated with pH neutralizing agents before discharging to the facility floor drains and discharging from the facility via Outfall 001. A 0.25-inch wire mesh screen before Outfall 001 captures any food particles generated during the sanitation process.

While processing clam juice, the wastewater generated from the sanitation process is discharged through Outfall 002.

The stainless-steel kettles are cleaned with a 180-gallon, heated solution of HLC-3000, a sodium hydroxide-based cleaner. After the cleaning process is complete, the solution is neutralized in the kettle with sulfuric acid, and the pH is tested to be between six and nine before the solution is discharged. The kettles are then de-scaled with a solution of Lime-sol, a phosphoric acid-based cleaner, which is neutralized with sodium hydroxide and pH-tested before discharge.

The filling machine is also cleaned with a 50-gallon, heated solution of HLC-3000, as well as a 50-gallon solution of Acidquat, a phosphoric acid-based cleaner and sanitizer. Both solutions are drained into a 60-gallon stainless steel tank, where they are neutralized. pH is tested before discharging, using an Oakton-150. The meter is calibrated before each use.

The juice filling machine and other pump systems are also cleaned with heated solutions of Acidquat. After the cleaning process is complete, these solutions are also neutralized, and pH tested before discharge.

The rest of the production facility, including all equipment, walls, and floors, is cleaned with ALPHA-2000 and Dawn, detergents which are pH-neutral in solution. After cleaning, all equipment and floors are sanitized with a solution of F-29, a quaternary ammonia-based sanitizer.”

Wastewater generated from the office and facility restrooms is discharged to the facility’s subsurface wastewater disposal system.

## 2. PERMIT SUMMARY (cont'd)

- d. Wastewater Treatment: Groundwater is pumped from the well located on the northeast side of the property to the facility production line, the water softener, and the office/bathrooms.

A water softener system treats the groundwater for use in the facility boiler. Untreated groundwater is directed to the office sinks/bathrooms and the production line.

The production line utilizes untreated groundwater for both the canning and sanitation process. A maximum of 8,000 gpd of wastewater is discharged only during the sanitation process.

Outfall 001 is a 1.5-inch pipe that discharges above water level. Outfall 002 is a 4-inch pipe that discharges above water level.

## 3. CONDITIONS OF PERMIT

Maine law, 38 M.R.S. 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., 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

*Classification of estuarine and marine waters*, 38 M.R.S. § 469(7) classifies the marine waters of Holmes Bay located in Whiting, Maine at the point of discharge, as a Class SB water. *Standards for classification of fresh surface waters*, 38 M.R.S. § 465-B(2) describes the standards for Class SB waters.

## 5. RECEIVING WATER QUALITY CONDITIONS

*The State of Maine 2016 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, lists marine waters at the permittee's outfall (Waterbody ID 811) as "Category 5-B-1(a): Estuarine and Marine Water Impaired for Bacteria Only – TMDL Required" for elevated fecal indicators.

The receiving waters are also listed under Category 5-D: *Estuarine and Marine Waters Impaired by Legacy Pollutants*. All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D, partially supporting fishing ("shellfish" consumption) due to elevated levels of polychlorinated biphenyls (PCBs) and other persistent, bioaccumulating substances in lobster tomalley.

## 5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The Maine Department of Marine Resources (MEDMR) closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions and current shoreline surveys. In addition, the MEDMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Information regarding shellfish harvesting in area #55-A can be found at <http://www.maine.gov/dmr/shellfish-sanitation-management/closures/pollution.html>

## 6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Effluent limitations and monitoring requirements are being established to address the quantity and quality of the seafood processing wastewater. Effluent limitations for total suspended solids, oil & grease, and pH are based on the Code of Federal Regulations (CFR), National Effluent Guidelines (NEGs) found at 40 CFR, Sub-Part W, Hand Shucked Clam Processing Category, §408.23. Subpart W is applicable for clam processing facilities that process more than 4,000 lbs. or more of raw material per day on any given day during a calendar year.

- a. Production – This permitting action establishes technology based mass and concentration limits based on raw production material. The facility processes raw/frozen clams year-round. Monthly average production was reported as 1,010 lbs./day with a daily maximum of 1,700 lbs./day. For the purpose of this permitting action, a monthly average clam production figure of 1,010 lbs./day is being utilized to calculate technology based permit limits.
- b. Flow – This permitting action establishes daily maximum flows provided by the permittee as follows:

Outfall #001

Outfall #002

Daily Maximum  
8,000 GPD

Daily Maximum  
5,000 GPD

- c. Dilution Factors: Department Regulation Chapter 530 Surface Water Toxics Control Program, §4(a)(2) states:
  - (1) *For estuaries where tidal flow is dominant and marine discharges, dilution factors are calculated as follows. These methods may be supplemented with additional information such as current studies or dye studies.*
  - (a) *For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model.*

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

- (b) *For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.*
- (c) *In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor.*

Given the outfalls do not discharge below mean low water, the Department is making a BPJ determination to establish the dilution factors associated with the wastewater discharge to Holmes Bay as follows:

Acute = 1:1                      Chronic = 1:1                      Harmonic mean = 3:1<sup>(1)</sup>

- <sup>(1)</sup> Pursuant to *Surface Water Toxics Control Program* 06-096 C.M.R. ch. 530, §4(2)(c), the harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by a factor of three (3).

- d. BOD<sub>5</sub> - This permitting action is establishing a monthly average mass limit of 11 lbs./day, and a daily maximum of mass limit of 18 lbs./day. Clams do not have effluent guideline limits (EGLs) for BOD<sub>5</sub>.

### Beans

The best practicable technology (BPT) based effluent guideline limits (EGLs) at 40 CFR Part 407.72 for TSS are expressed as a monthly average of 1.51 pounds per 1,000 pounds of production and a daily maximum of 2.50 pounds per 1,000 pounds production. Utilizing a production value of 4,000 lbs./day, monthly average and daily maximum technology-based mass limits were calculated as follows:

$$\text{Monthly Average: } \frac{(4,000 \text{ lbs./day})(1.51 \text{ lbs.})}{1,000 \text{ lbs.}} = 6.04 \text{ lbs./day}$$

$$\text{Daily Maximum: } \frac{(4,000 \text{ lbs./day})(2.50 \text{ lbs.})}{1,000 \text{ lbs.}} = 10 \text{ lbs./day}$$

### Soups/Stocks

The best practicable technology (BPT) based effluent guideline limits (EGLs) at 40 CFR Part 407.82 for TSS are expressed as a monthly average of 2.46 pounds per 1,000 pounds of production and a daily maximum of 4.14 pounds per 1,000 pounds production. Utilizing a production value of 2,000 lbs./day, monthly average and daily maximum technology-based mass limits were calculated as follows:

$$\text{Monthly Average: } \frac{(2,000 \text{ lbs./day})(2.46 \text{ lbs.})}{1,000 \text{ lbs.}} = 4.92 \text{ lbs./day}$$

$$\text{Daily Maximum: } \frac{(2,000 \text{ lbs./day})(4.14 \text{ lbs.})}{1,000 \text{ lbs.}} = 8.28 \text{ lbs./day}$$

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

- d. TSS – This permitting action is establishing a monthly average mass limit of 40 lbs./day, and a daily maximum of mass limit of 89 lbs./day.

### Clams

The best practicable technology (BPT) based EGLs at 40 CFR Part 408.235 for TSS are expressed as a monthly average of 17 pounds per 1,000 pounds of production and a daily maximum of 55 pounds per 1,000 pounds production. Utilizing a production value of 1,010 lbs./day, monthly average and daily maximum technology-based mass limits were calculated as follows:

$$\text{Monthly Average: } \frac{(1,010 \text{ lbs./day})(17 \text{ lbs.})}{1,000 \text{ lbs.}} = 17 \text{ lbs./day}$$

$$\text{Daily Maximum: } \frac{(1,010 \text{ lbs./day})(55 \text{ lbs.})}{1,000 \text{ lbs.}} = 56 \text{ lbs./day}$$

### Beans

The best practicable technology (BPT) based effluent guideline limits (EGLs) at 40 CFR Part 407.72 for TSS are expressed as a monthly average of 3.13 pounds per 1,000 pounds of production and a daily maximum of 4.48 pounds per 1,000 pounds production. Utilizing a production value of 4,000 lbs./day, monthly average and daily maximum technology-based mass limits were calculated as follows:

$$\text{Monthly Average: } \frac{(4,000 \text{ lbs./day})(3.13 \text{ lbs.})}{1,000 \text{ lbs.}} = 13 \text{ lbs./day}$$

$$\text{Daily Maximum: } \frac{(4,000 \text{ lbs./day})(4.48 \text{ lbs.})}{1,000 \text{ lbs.}} = 18 \text{ lbs./day}$$

### Soups/Stocks

The best practicable technology (BPT) based effluent guideline limits (EGLs) at 40 CFR Part 407.82 for TSS are expressed as a monthly average of 5.09 pounds per 1,000 pounds of production and a daily maximum of 7.38 pounds per 1,000 pounds production. Utilizing a production value of 2,000 lbs./day, monthly average and daily maximum technology-based mass limits were calculated as follows:

$$\text{Monthly Average: } \frac{(2,000 \text{ lbs./day})(5.09 \text{ lbs.})}{1,000 \text{ lbs.}} = 10 \text{ lbs./day}$$

$$\text{Daily Maximum: } \frac{(2,000 \text{ lbs./day})(7.38 \text{ lbs.})}{1,000 \text{ lbs.}} = 15 \text{ lbs./day}$$

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

- e. Oil & Grease (O&G) – This permitting action establishes BPT limits for O&G according to 40 CFR §408.235 as follows:

Monthly average – 0.21 lbs./1,000 lbs. of production

Daily maximum – 0.56 lbs./1,000 lbs. of production

With a monthly average production figure of 1,010 lbs., technology based mass limits are calculated as follows:

$$\text{Monthly average: } \frac{(1,010 \text{ lbs./day})(0.21 \text{ lbs.})}{(1,000 \text{ lbs.})} = 0.2 \text{ lbs./day}$$

$$\text{Daily maximum: } \frac{(1,010 \text{ lbs./day})(0.60 \text{ lbs.})}{(1,000 \text{ lbs.})} = 0.6 \text{ lbs./day}$$

- f. Total Residual Chlorine (TRC): The permittee is not required to monitor the effluent for TRC unless a chlorine-based or sodium hypochlorite-based compound is utilized for sanitization purposes.

When either or both of the above-mentioned criteria are in effect, the minimum monitoring frequency requirement is 1/day based on best professional judgment.

Department licensing/permitting actions impose the more stringent of either a water quality-based or BPT based limit. End-of-pipe acute and chronic water quality based concentration thresholds may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	1:1 (A + C)	0.013 mg/L	0.0075 mg/L

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that utilize chlorine or chlorine-based compounds for disinfection purposes. The technology-based limit of 1.0 mg/L is less stringent than the water quality based limits. Therefore, the water quality based limits of 0.013 mg/L and 0.0075 mg/L are being established in this permitting action.

- g. pH – This permitting action establishes a pH range limitation of 6.0 – 9.0 standard units based on the BPT pH limitation in 40 CFR, §408.235 for hand-shucked clam processing.

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

- h. Nitrogen – The USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards in marine waters, namely dissolved oxygen (DO) and marine life support. The Department is using an arithmetic mean effluent value of 14.0 mg/L, as determined from seafood processing wastewater from another licensed Maine facility that discharges to marine waters of the State. In the absence of facility-specific effluent information, the Department considers 14.0 mg/L to be representative of total nitrogen discharge levels for Looks Gourmet Seafood, Inc.

As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for total nitrogen. According to several studies in USEPA's Region 1, numeric total nitrogen criteria have been established for relatively few estuaries, but the criteria that have been set typically fall between 0.35 mg/L and 0.50 mg/L to protect marine life using dissolved oxygen as the indicator. While the thresholds are site-specific, nitrogen thresholds set for the protection of eelgrass habitat range from 0.30 mg/L to 0.39 mg/L. Based on studies in USEPA's Region 1 and the Department's best professional judgment of thresholds that are protective of Maine water quality standards, the Department is utilizing a threshold of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator, and 0.32 mg/L for the protection of aquatic life using eelgrass as the indicator.

Two known surveys have been completed within Holmes Bay to document presence/absence of eelgrass. The surveys occurred in 1993 and 2009 and were completed by the Maine Department of Marine Resources (DMR). From both surveys, DMR mapped extensive and continuous eelgrass within most of this shallow embayment, and assigned low percent cover (0-10%) and partial percent cover (40-70%) classes during 1993 and 2009, respectively. The nearest mapped eelgrass was approximately 0.1 km from the proposed discharge locations. Although no known eelgrass survey has been completed since 2009, the historic presence of eelgrass would indicate that the habitat may remain suitable for hosting eelgrass. Based on this mapping history, the use of 0.32 mg/L as a total nitrogen threshold value for protection of eelgrass is appropriate for this receiving water.

The scope, scale and nature of this discharge is so minimal in relation to the resource that there is no expectation to be able to detect any persistent far-field related influences. The discharge area will be inundated by tidal fluctuations twice daily, such that any highly localized influences will be relatively brief and will not persist on time scales that are meaningful for potential far-field influences.

The Department and external partners have been collecting ambient total nitrogen data along Maine's coast. No total nitrogen data are known to exist from Holmes Bay. In general, few data points exist along the relatively exposed embayments of Downeast Maine where eelgrass has at least been historically present and upland development likely only minimally contributes stormwater nutrients. For a calculation of a background total nitrogen value, the Department has selected two sites from the adjacent, upper Machias Bay, sampled in 2010 and 2016. The use of these two sites for the background total nitrogen calculation approximates the ambient conditions likely to occur in Holmes Bay. From these sites, the Department has calculated a mean background concentration of 0.22 mg/L (n=6). Since there is not expected to be any measurable increase in ambient total nitrogen, the Department is making a best professional judgment determination that the discharge of total nitrogen from the Looks Gourmet Seafood, Inc. facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters. This permitting action is not establishing limitations or monitoring requirements for total nitrogen.

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

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody to meet Class SB classifications.

## **8. PUBLIC COMMENTS**

Public notice of this application was made in the Machias Valley News Observer newspaper on July 11, 2018. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## **9. DEPARTMENT CONTACTS**

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

Cindy L. Dionne  
Division of Water Quality Management  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 287-7823  
e-mail: [Cindy.L.Dionne@maine.gov](mailto:Cindy.L.Dionne@maine.gov)

## **10. RESPONSE TO COMMENTS**

*This section reserved until the end of the public comment period.*



# **ATTACHMENT A**

@ 1:24,000

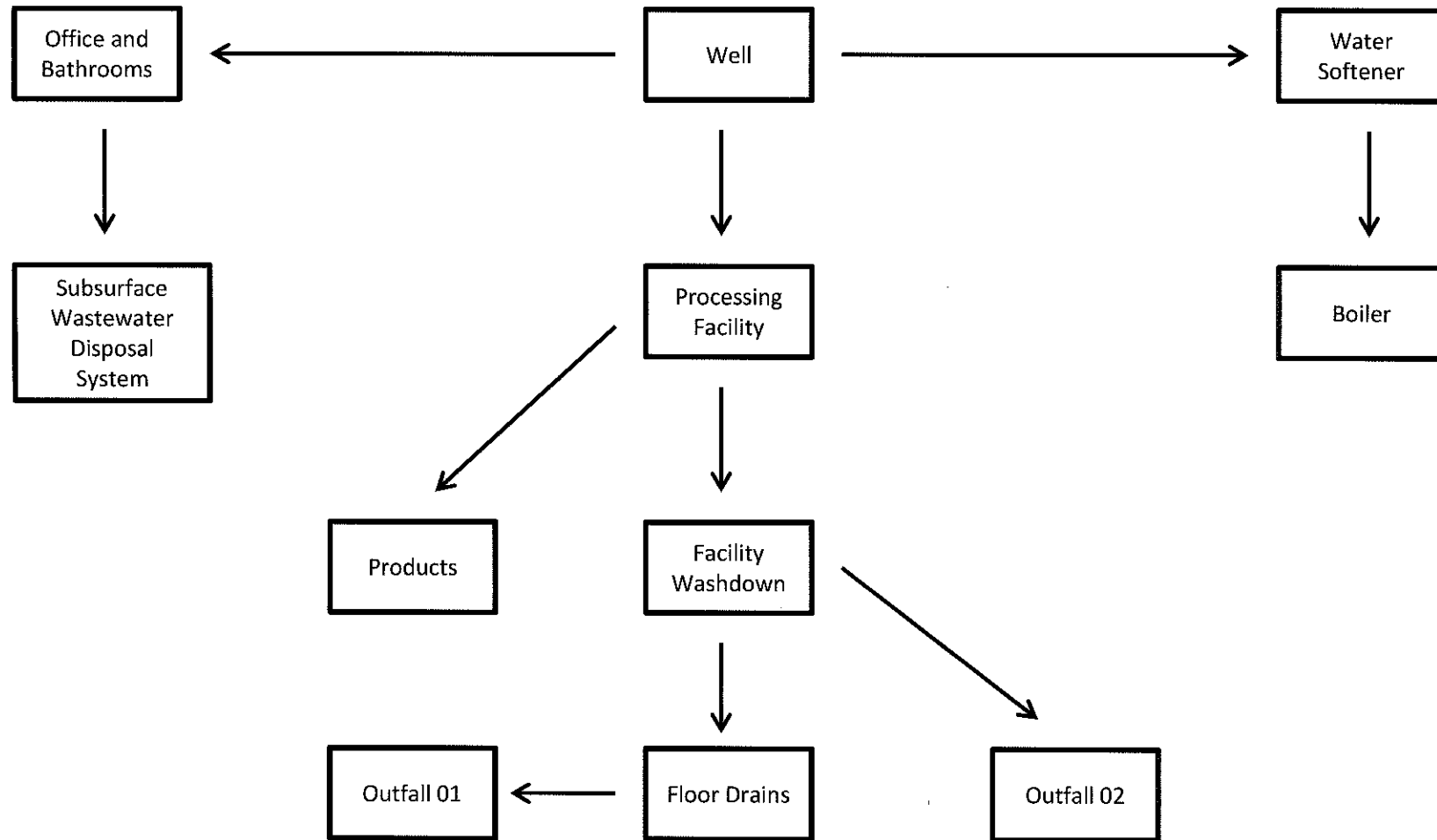


**CES**  **INC**

**LOOKS GOURMENT FOOD COMPANY**  
**CUTLER ROAD, WHITING MAINE**  
**LOCATION MAP**

MARCH 19, 2018  
11916.002

# Look's Gourmet Foods Water Flow Diagram



Compiled on 03/06/18