

September 29, 2008

Mr. George B. Flood Jr.
George B. Flood Jr. Family Limited Partnership
d/b/a Flood Bothers Inc.
839 River Road
Clinton, ME. 04927

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036986
Maine Waste Discharge License (WDL) Application #W009024-5S-A-N
Concentrated Animal Feeding Operation (CAFO)
Final Permit/License

Dear Mr. Flood:

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

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

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

Sincerely,

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

Enc.

cc: Alan Hunter, DAFRR
William Seekins, DAFRR
Sandy Lao, USEPA

Mark Hedrich, DEP/DAFRR
James Crowley, DEP/CMRO

IN THE MATTER OF

GEORGE B. FLOOD JR. FAMILY LIMITED	)	MAINE POLLUTANT DISCHARGE
PARTNERSHIP – d/b/a FLOOD BROTHERS INC.	)	ELIMINATION SYSTEM PERMIT
CLINTON, KENNEBEC COUNTY, MAINE	)	
CONCENTRATED ANIMAL FEEDING OPERATION	)	AND
ME0036986	)	WASTE DISCHARGE LICENSE
W009024-5S-A-N	)	NEW
APPROVAL	)	

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

APPLICATION SUMMARY

FBI has applied to the Maine DEP for a combination Maine Pollutant Discharge Elimination System (MEPDES) permit and Maine Waste Discharge License (WDL) to discharge storm water to Jackins Brook, Class B and the Kennebec River, Class C and manage process waste waters that are generated by the operation of a concentrated animal feeding operation (CAFO) located in the Town of Clinton such that there is no discharge to surface waters.

PERMIT SUMMARY

This permitting action is requiring the permittee to develop and implement Best Management Practices (BMP's) to prevent discharges to waters of the State of Maine, 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. The Nutrient Management Plan shall be developed and implemented in accordance with Maine Department of Agriculture, Food and Rural Resources (DAFRR) regulation Chapter 565, *Nutrient Management Rules*, §6.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 28, 2008 and subject to the Conditions listed below, the DEP makes the following CONCLUSIONS:

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

ACTION

THEREFORE, the DEP APPROVES the above noted application of GEORGE B. FLOOD JR. FAMILY LIMITED PARTNERSHIP – d/b/a FLOOD BROTHERS INC. to discharge storm water to Jackins Brook, Class B and the Kennebec River, Class C and manage process waste waters generated by the operation of a concentrated animal feeding operation (CAFO) located in Clinton such that there are no discharge(s) to surface waters. The CAFO is SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations, including:

1. “*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*,” revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit expires five (5) years from the date of signature below.

DONE AND DATED AT AUGUSTA, MAINE, THIS 3rd DAY OF October, 2008.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
DAVID P. LITTELL, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: July 28, 2008.

Date of application acceptance: July 31, 2008.

Date filed with Board of Environmental Protection _____

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

SPECIAL CONDITIONS

A. DISCHARGE LIMITATIONS

1. There shall be no discharge of process generated waste waters to surface waters or adjacent wetlands. See Special Condition H(1) of this permit for a definition of process waste waters.
2. Discharge(s) of storm water shall;
 - a. Not contain a visible oil sheen, foam or floating solids in the receiving waters at any time which would impair the usages designated by the classification of the receiving waters.
 - b. Not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
 - c. Not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.
 - d. Notwithstanding specific conditions of this permit, discharges must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.
3. Notification of discharge(s):

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

- a. Description of the discharge: A description and cause of the discharge, including a description of the flow path to the receiving water body and an estimation of the flow and volume discharged.
- b. Time of the discharge: The period of discharge, including exact dates and times, and the anticipated time the discharge is expected to continue.

SPECIAL CONDITIONS

A. DISCHARGE LIMITATIONS (cont'd)

- c. Cause of the discharge: If caused by precipitation event(s), information from the onsite rain gauge required by Special Condition E(6) of this permit concerning the size of the precipitation event must be provided.
- d. Steps being taken to reduce, eliminate and prevent recurrence of the non-complying circumstances or discharges.
- e. Verbal notification must be made to the Maine DEP and DAFRR within 24-hours of the facility discharge. Written notification including the information required above must be received by the Maine DEP and DAFRR within five (5) calendar days of the discharge. The contact telephone numbers and addresses are:

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

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

- 4. Monitoring requirements for process water discharges: In the event of an overflow or any other discharge from the storage lagoons, other waste water storage structures or feed storage operations, the following actions shall be taken:
 - a. Analysis of the discharge: All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters:

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

SPECIAL CONDITIONS

A. DISCHARGE LIMITATIONS (cont'd)

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

B. BEST MANAGEMENT PRACTICES

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

- a. Minimum Standard: Buffers or Equivalent Practices - Provide and maintain buffer strips or other equivalent practices near feedlots, manure storage areas, and land application areas that are sufficient to minimize discharge of pollutants to surface waters of the State of Maine (e.g., soil erosion and manure and waste water). These practices may include, but are not limited to, residue management, conservation crop rotation, grassed waterways, strip cropping, vegetative buffers, forested riparian buffers, terracing, and diversion.
- b. Minimum Standard: Divert Clean Water -Design and implement management practices to divert clean water and floodwaters from contact with feedlots and holding pens; animal manure; or manure and/or process waste water storage systems. Clean water includes rain falling on the roofs of facilities, runoff from adjacent land, or other sources.
- c. Minimum Standard: Prevent Direct Contact of Animals With Surface Waters of the State of Maine - Develop and implement appropriate controls to prevent direct access of animals in confinement to surface waters of the State of Maine and to protect water quality.
- d. Minimum Standard: Animal Mortality - Handle and dispose of dead animals in a manner that prevents contamination of surface waters and ground waters of the State of Maine.

SPECIAL CONDITIONS

B. BEST MANAGEMENT PRACTICES (cont'd)

- e. Minimum Standard: Chemical Disposal - Prevent introduction of chemicals into manure and waste water storage structures for purposes of disposal. Examples include pesticides, herbicides, cleaning and disinfectant chemicals, veterinary medicines and compounds, hazardous and toxic chemicals, fuels and petroleum products/by-products.
- f. Minimum Standard: Proper Operation & Maintenance - Implement an operation and maintenance program that involves periodic visual inspection and maintenance of all manure storage and handling equipment and structures and all runoff management devices (e.g., cleaning separators, barnyards, catch basins, screens, annual calibration of land application equipment, maintenance of filter strips) and to prevent discharges of pollutants to surface waters of the State of Maine.
- g. Minimum Standard: Maintain Proper Storage Capacity - Maintain sufficient freeboard in liquid manure storage structures (at least one foot) to ensure compliance with the permit conditions.

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

C. LIVESTOCK OPERATIONS PERMIT

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

D. NUTRIENT MANAGEMENT PLAN

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

SPECIAL CONDITIONS

E. GENERAL FACILITY INSPECTIONS AND MONITORING

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

1. Employee Training: Where employees are responsible for work activities that relate to permit compliance, those employees must be regularly trained or informed of any information regarding the proper operation and maintenance of the facility and waste disposal. Training shall include topics as appropriate such as land application of wastes, proper operation and maintenance of the facility, good housekeeping and material management practices, necessary record keeping requirements, and spill response and clean up. The permittee is responsible for determining and providing the appropriate training frequency for different levels of personnel and maintain records of the training provided.
2. Record Keeping and Internal Reporting Procedures. Incidents such as spills or overflows, along with information describing the pollution potential and quantity of the discharge shall be described in writing. Inspections and maintenance activities shall be documented.
3. Visual Inspections. The permittee shall inspect equipment and facility areas daily and during and subsequent to any rain event. Material handling areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Visual inspections of all manure and runoff storage structures, handling and distribution systems, feed storage operations other process systems or controls, and buffer strips shall be undertaken to ensure that all are in proper working order.
4. Site Inspection. A complete inspection of the facility shall be conducted by the farm manager and a report made documenting the findings of the inspection made at least once/year. The report shall be kept on-site and made available to DAFRR, DEP and EPA staff upon request.
5. All inspection reports and other record keeping required above must be kept current at all times and maintained at the facility.
6. If the operator of the farm chooses to self-record rainfall data then (see footnote #5 on page 9 of this permit) a rain gauge shall be maintained at the facility to record values for each 24-hour period.

SPECIAL CONDITIONS

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

7. Summary of Inspection and Monitoring Requirements:

PARAMETER	UNITS	FREQUENCY
Facility inspection¹		
Lagoon or storage structure monitoring and inspection		
Freeboard ²	Feet	Bi-Weekly
Structural integrity (i.e., visual inspection for the integrity of berms) ³	N/A	Bi-Weekly
Total kjeldahl nitrogen (TKN) as nitrogen	mg/L	1/Quarter ⁴
Precipitation		
Rainfall ⁵	Inches	Daily

Footnotes:

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

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

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

⁴ Second, third and fourth calendar quarters of each year for each manure pit.

⁵ The permittee shall maintain a precipitation gauge at each storage facility and record the rainfall for each 24-hour period between March 1 and April 30 and November 1 through November 30 of each year or obtain daily precipitation records for said periods from other entities within a 25 miles radius of the farm.

SPECIAL CONDITIONS

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

8. Additional Monitoring Requirements

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

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

F. REOPENING OF PERMIT FOR MODIFICATIONS

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

G. SEVERABILITY

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

SPECIAL CONDITIONS

H. DEFINITIONS

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

