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GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
106 HOGAN ROAD, SUITE 7  
BANGOR, MAINE 04401

WALTER E. WHITCOMB  
COMMISSIONER

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

# PERMIT

## AMENDMENT P TO DEVELOPMENT PERMIT DP 4636 BY SPECIAL EXCEPTION

The staff of the Maine Land Use Planning Commission (the LUPC or Commission), after reviewing the application and supporting documents submitted by Cherryfield Foods, Inc. (the applicant or CFI) for Amendment P to Development Permit DP 4636, finds the following facts:

1. Applicant: Cherryfield Foods, Inc.  
(Cherryfield Properties, LLC)  
(Cherryfield Holdings, Inc.)  
PO Box 128  
Cherryfield, Maine 04622
2. Date of Completed Application: February 03, 2014
3. Property Locations:
  - Berry Township, Washington County, Maine  
Maine Revenue Service Map WA001; Plan 01 Lot 4.1
  - Cathance Township, Washington County, Maine  
Maine Revenue Service Map WA034; Plan 02; Lots 2 and 3  
Maine Revenue Service Map WA034; Plan 04; Lot 10 and 11
  - Centerville Township, Washington County, Maine  
Maine Revenue Service Map WA035; Plan 03; Lot 8
  - Marion Township, Washington County, Maine  
Maine Revenue Service Map WA031; Plan 03; Lot 13
  - T7 SD BPP, Hancock County, Maine  
Maine Revenue Service Map HA003; Plan 01; Lot 4
  - T16 MD BPP, Hancock County, Maine  
Maine Revenue Service Map HA007; Plan 01; Lots 6, 7, 8 and 9
  - T18 MD BPP, Washington County, Maine  
Maine Revenue Service Map WA005; Plan 01; Lot 1
  - T19 MD BPP, Washington County, Maine  
Maine Revenue Service Map WA006; Plan 01; Lots 2.1, 2.2, 8.2, 10.1 and 16
  - T24 MD BPP, Washington County, Maine  
Maine Revenue Service Map WA007; Plan 01; Lots 1 and 11
  - T25 MD BPP, Washington County, Maine  
Maine Revenue Service Map WA008; Plan 01; Lot 1.1, 1.2, 5.1 and 6.1

4. Location Specific to this Amendment:

T18 MD BPP, Washington County, Maine  
Maine Revenue Service Map WA005; Plan 01; Lot 1

5. Zoning Specific to this Amendment:

(M-GN) General Management Subdistrict  
(P-WL2) Wetland Protection Subdistrict

6. Acreage: 43,415<sup>±</sup> Acres (Owned)

7. Projects: Surface and Groundwater Withdrawal Sites, Man-Made Storage Ponds

8. Affected Rivers and Streams: The Pleasant River (which is in the Pleasant River watershed) is subject to State of Maine and Federal Atlantic Salmon Conservation Plans and is a Class AA flowing water.<sup>1</sup>  
Bog Stream (which is in the Pleasant River watershed) is a Class B flowing water.

9. Affected Great Ponds: Schoodic Lake (389 acres), Montegail Pond (170 acres), West Pike Brook Pond (32 acres), Rocky Lake (32 acres), Pretty Pond (27 acres), Goose Pond (16 acres), Long Pond (15 acres), Horseshoe Pond (12 acres), Otter Pond (12 acres), East Pike Brook Pond (12 acres), Barren Pond (11 acres) and Unnamed Pond (10 acres).

10. Other Affected Ponds Under 10 Acres: Duck Pond and Spring Hole Pond

11. Man-Made Storage Ponds: Pretty Barrens Reservoir, Campbell Park Reservoir, and the Frankie Dow Memorial Reservoir

### **Administrative History**

12. Active Groundwater Well Withdrawal Sites, Active Surface Water Withdrawal Sites, Reserved Groundwater Withdrawal Sites, Reserved Surface Water Withdrawal Sites, and Man-Made Storage Ponds are listed in Appendix A, Tables 1 and 2, attached at the end of this permit and incorporated herein by reference.

13. The administrative history of Development Permit DP 4636 is attached as Appendix B to this permit amendment, and is incorporated herein by reference.

### **Proposal**

14. The applicant seeks amendment approval to pump water from one (1) new groundwater irrigation well (Pike Brook Well II).

A. *Pike Brook Well II (Proposed)*. This proposed 24-inch irrigation groundwater well would be located in T18 MD BPP and would be situated approximately 900 feet southeast of West Pike Brook Pond, approximately 1,500 feet southwest of East Pike Brook Pond and 1,800 feet northwest of Horseshoe Pond. Exploration test-drilling defined this proposed groundwater well as an area of deep water-bearing

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<sup>1</sup> Reference 38 M.R.S. § 464 and § 465.

sand and gravel. Exploration reached a depth of 99 feet. This groundwater well would have a period of operation from May 1 to September 30 and a maximum pumping rate of 2,500 gpm<sup>2</sup>. The applicant would monitor water level in water-level monitoring wells 12-13 and 02-01, and the stage of West Pike Brook Pond.

15. In response to Maine Department of Inland Fisheries and Wildlife's (MDIFW) comments (see Finding of Fact #16) CFI states:

Agricultural wells are exempt from licensing as significant groundwater wells, but must otherwise be in compliance with Chapter 587 with respect to impacts on nearby surface waters. This Chapter applies equally to all agricultural concerns with wells in Maine. As long as the separation distance between an agricultural well and surface water is at least 500 feet, the Maine Department of Environmental Protection (MDEP) is not initially concerned. However, if conditions do occur that indicate possible lack of compliance with Chapter 587, the DEP can require certain environmental monitoring or impose operating restrictions.

The proposed Pike Brook Well II is more than 500 feet from either West or East Pike Brook Ponds, and during our pumping test of the Pike Brook Well II's 8-inch test well, no influence on West Pike Brook Pond was detected. Furthermore, during our past use of Pike Brook Well I for irrigation for the 2002-2006 seasons when both West and East Pike Brook Ponds were monitored, no pumping influence on either pond was detected.

In this case, MDIFW has no evidence of irrigation well influence on West Pike Brook Pond, but requests that Cherryfield Foods monitor the water level of that pond. We will, therefore, include monitoring of the stage of West Pike Brook Pond when using the new Pike Brook Well II using the same monitoring protocol established for other ponds that we monitor relative to use of our irrigation wells. This pond stage monitoring will continue for the duration of the LUPC permit.

As for the other two ponds that MDIFW requested to be monitored, both are clearly within the areas farmed by other producers. Near to Pineo Pond there is a major irrigation well owned and operated by another producer. CFI knows of no well near Peep Pond (noted as "Lake" on other maps and documents). Both Pineo and Peep ponds are widely separated from wells or other water sources used for blueberry irrigation by CFI. Additionally, we have never over 13 years of using irrigation wells detected any regional or long term drop in water tables in our large array of groundwater monitoring wells. Consequently, there is no evidence of negative influence on these distant ponds from our blueberry irrigation operations.

### **Resource Agency Review Comments**

16. The MDIFW received a copy of the applicant's *2013 Hydrologic Data for Irrigation Water Sources* report and the pending agricultural water withdrawal permit application. The MDIFW provided no comments on the report but voiced concerns on the long term effects of groundwater withdrawal for irrigation purposes and the potential for impact to cold water spring inflow and water levels of four (4) nearby "kettle hole" ponds (West Pike Brook Pond, East Pike Brook Pond, Pineo Pond, and Peep Pond). The MDIFW requested that a monitoring plan be developed for the ponds, to assure that the irrigation practices do not impact water levels or water temperatures. Two of the "kettle hole" ponds, West Pike Brook Pond and East Pike Brook Pond are on lands owned and farmed by CFI.

17. The Maine Geological Survey (MGS) received a copy of the applicant's *2013 Hydrologic Data for Irrigation Water Sources* report, the pending agricultural water withdrawal permit application and

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<sup>2</sup> gpm = gallons per minute

MDIFW's comments. (MGS commented on all Active and some Reserve water withdrawal sites as part of a yearly review of the applicant's irrigation program and assessment of undue adverse impact; however, only those comments pertinent to the proposed new irrigation well requested herein by the applicant have been included (*summarized*) in this document).

- A. Response to the 2013 Report. The *2013 Hydrologic Data for Irrigation Water Sources* report summarized in tabular and graphical format, surface water, ground water level, rainfall, pumping rates, and total volumes of water pumped for irrigation purposes by individual site and/or source. This data was used in support of the conclusions drawn in the various hydrologic and hydrogeologic evaluations of the sites. No general comments are really necessary. The data speaks for itself and it is clear that the applicant (CFI) is adequately monitoring the possible environmental impacts due to their water withdrawals.
- B. Response to MDIFW's Comments. The MDIFW comments infer that CFI's irrigation pumping activities pose a threat or possible threat to water levels and water temperatures of West Pike Brook Pond and East Pike Brook Pond. Historic water level and well pumping data for Pike Brook Well I have never revealed a hydraulic influence on either pond's water level. Considering the distance of CFI's Proposed Pike Brook Well II from either pond, it is only justifiable to monitor the level in West Pike Brook Pond for this new pumping well. If there is a discernable effect on West Pike Brook Pond due to pumping the Pike Brook Wells then CFI should explore use of the wells tied to permissible levels as if direct withdrawals were occurring. It should be noted that water temperature issues in East Pike Brook Pond were well established and predate the use of either Pike Brook Pond Wells.
- C. Response to Pike Brook Well II (Proposed). Cherryfield Foods proposes the installation of a 24-inch, 99 foot deep well in the footprint of a recently installed and tested 8-inch well. This well is situated approximately 1,000 feet west-southwest of Pike Brook Well I. The closest surface water body is about 1,000 feet away (West Pike Brook Pond) and the expected yield is 2,500 gallons/minute. While it is not expected to influence levels in West Pike Brook Pond, CFI proposes to monitor stage in this water body at an established previously used staff gage location. The MGS recommends approval for the use of this new well as proposed.

18. The MDEP received a copy of the applicant's *2013 Hydrologic Data for Irrigation Water Sources* report, the pending agricultural water withdrawal permit application and MDIFW's comments and stated:

- A. As to the 2013 report and how withdrawals pertain to the effects on surface water resources (Chapter 587 flow rules), CFI's withdrawals during 2013 have been in compliance.
- B. As to the proposed Pike Brook Well II, the MDEP has no concerns regarding impacts to surface waters in regards to Chapter 587 flow rules.

### **Commission Review Criteria**

19. According to 12 M.R.S. § 681 of the Commission's Statutes, it is the purpose and scope of the Commission, among other things, to prevent the despoliation, pollution and detrimental uses of the water in unorganized and deorganized townships of the State.
20. According to 12 M.R.S. § 685-B(4)(C) of the Commission's Statutes, which is incorporated into Section 10.24,C of the Commission's Standards, the Commission may not approve an application, unless adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character, and natural and historic

resources in the area likely to be affected by the proposal. In making a determination under this paragraph regarding development to facilitate withdrawal of groundwater, the commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commission shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.

21. According to Section 10.23,N,3,d,(2) of the Commission's Land Use Districts and Standards (the Commission's Standards), alteration of the water table or water level for other than mineral extraction may be allowed within a (P-WL) Wetland Protection Subdistrict as a special exception upon issuance of a permit from the Commission according to 12 M.R.S. § 685-A(10) and subject to the applicable requirements set forth in Sub-Chapter III provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses or resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.
22. According to Sections 10.22,A,3,c,(26) and 10.23,N,3,c,(18) of the Commission's Standards, other structures, uses, or services that are essential to the uses listed in Section 10.22,A,3,(a through c) and 10.23,N,3,(a through c), respectively, may be allowed within an (M-GN) General Management Subdistrict and a (P-WL) Wetland Protection Subdistrict, respectively, upon issuance of a permit from the Commission according to 12 M.R.S. § 685-B and subject to the applicable requirements set forth in Sub-Chapter III.
23. According to Sections 10.22,A,3,b,(2) and 10.23,N,3,b,(1) of the Commission's Standards, an agricultural management activity is a use allowed without a permit from the Commission within an (M-GN) General Management Subdistrict and a (P-WL) Wetland Protection Subdistrict, respectively, subject to the applicable requirements set forth in Sub-Chapter III.
24. Section 10.02(5) of the Commission's Standards defines agricultural management activities as "land clearing if the land topography is not altered, tilling, fertilizing, including spreading and disposal of manure, liming, planting, pesticide application, harvesting or cultivating crops, pasturing of livestock, minor drainage and maintenance of drainage, and other similar or related activities, but not the construction, creation or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities" [Piping for agricultural irrigation is treated by the LUPC as an agricultural management activity.]
25. 38 M.R.S. § 470-A. Definitions.

*Water source.* "Water source" means any river, stream or brook as defined in section 480-B, any lake or pond classified GPA pursuant to section 465-A or groundwater located anywhere in the State.

*Water withdrawal; withdrawal of water.* "Water withdrawal" or "withdrawal of water" means the removal, diversion or taking of water from a water source. All withdrawals of water from a particular water source that are made or controlled by a single person are considered to be a single withdrawal of water.

26. 38 M.R.S. § 470-B. Threshold Volumes for Reporting.

*Withdrawals from other groundwater sources.* The threshold volume for reporting on withdrawals from groundwater greater than 500 feet from a river, stream, brook or GPA classified lake or pond is 50,000

gallons on any day, unless the person making the water withdrawal demonstrates to the department's satisfaction that the withdrawal will not impact any adjacent surface water body.

27. The Department of Environmental Protection's 06-096, Chapter 587: In-stream Flows and Lake and Pond Water Levels, August 24, 2007 (applies statewide):
28. The facts are otherwise as represented in the application for Amendment P to Development Permit DP 4636, all other applicable amendments and applications, and all other supporting documents.

**Based upon the above Findings, the staff concludes that:**

1. Table 1, attached at the end of this permit in Appendix A and incorporated herein by reference, details all approved Active and Reserved surface and ground water withdrawal sites; and the period of operation, pumping rate(s) or pond level limit(s), and water monitoring stations with the requirements for each. Table 2, also attached at the end of this permit in Appendix A and incorporated herein by reference, summarizes the monitoring and reporting requirements for specific water sources.
2. A review of the 2013 Hydrologic Data for Irrigation Water Sources submitted by Cherryfield Foods, Inc. indicates that Cherryfield Foods, Inc. is adequately monitoring the possible environmental impacts due to their water withdrawal.
3. The one (1) groundwater well withdrawal site proposed to be used for agricultural irrigation, detailed in the Findings of Facts, above and in Section A, below is granted approval with the following considerations:
  - A. *Pike Brook Well II*. The Maine Department of Inland Fisheries and Wildlife expressed concern for the use of the proposed Pike Brook Well II in respects to potential effects on West and East Pike Brook Ponds. In response to those concerns, the applicant has agreed to monitor the water level of West Pike Brook Pond during pumping. The proposed period of operation, maximum pumping rate and hydrologic monitoring requirements proposed are appropriate. Further, there are no bodies of standing water or flowing waters within 500 feet of the location of this proposed well. Accordingly, this well is approved as proposed, except that if the yearly water-level monitoring and stage data indicate that the well is not in compliance with MDEP or LUPC regulations the approved withdrawal rate, period of operation and/or hydrologic monitoring requirements may be revised. If the applicant proposes to increase the period of operation, increase the maximum pumping rate, or reduce the hydrologic monitoring requirements, the applicant must contact LUPC prior to making these changes to determine if a permit amendment and/or additional monitoring and reporting will be required.
4. Cherryfield Foods, Inc. will continue to work to ensure that all water sources are in compliance with 06-096, Chapter 587: In-stream Flows and Lake and Pond Water Levels.
5. If carried out in compliance with the Conditions below, the proposal will meet the applicable requirements set forth in Sub-Chapter III of the Commission's Standards and the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.

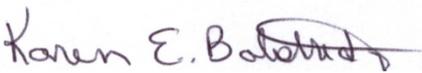
**Therefore, the staff approves the amendment application of Cherryfield Foods, Inc. with the following Conditions:**

1. The Standard Conditions of Approval for all Development Permits (ver. 04/04), a copy of which is attached.

2. Notwithstanding Condition #3 of the Standard Conditions of Approval for all Development Permits, this permit shall remain in effect unless:
  - A. The annual report indicates that a certain surface water withdrawal site or groundwater well is causing an undue adverse impact;
  - B. A certain surface water withdrawal site or groundwater well is found to not be in compliance with the provisions of MDEP's Chapter 587 or 38 M.R.S. Section 470-B;
  - C. Increases are proposed to be made to any approved period of operation, maximum pumping rate, or maximum seasonal drawdown;
  - D. Decreases are proposed for any hydrologic monitoring requirement; and
  - E. Additional augmentation of a surface water body is proposed.
3. The permittee shall notify LUPC staff in writing if permanent decreases are made to the period of operation, the maximum pumping rate, or the maximum seasonal drawdown.
4. Should the permittee wish to amend any permit condition, a complete application, acceptable for processing, must be submitted. To be complete for processing, the permit application must include a map showing the locations of all 'Active' and 'Reserved' withdrawal sites.
5. Continued use of any groundwater well, where a standing or flowing water is within 500 feet of the well, is contingent upon the annual hydrologic monitoring report showing that no undue adverse impacts to the monitored surface water body has occurred and that the provisions of Chapter 587 and 38 M.R.S. Section 470-B have been met.
6. Tables 1 and 2 of all previous Amendments to Development Permit DP 4636 are superseded by Table 1 and 2 of this permit (attached), which list the approved maximum pumping rates, conditions and period of operation, augmentation, monitoring and reporting requirements for all Active and Reserved water withdrawal sites.
7. All conditions of Development Permit DP 4636, as amended, shall remain in effect except as altered by this amendment. All groundwater and surface water withdrawal sites granted approval under previous amendments and permit conditions specific to those activities shall remain in effect.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT BANGOR, MAINE, THIS 11<sup>TH</sup> DAY OF MARCH, 2014.

By:   
for Nicholas D. Livesay, Executive Director

**APPENDIX A: Tables 1 and 2****Table 1 - Surface and Ground Water Withdrawal Sites Summary Table**

| Withdrawal Source              | Status | Location   | Geographic Coordinates |                 | Operation Period | Pumping Rate or Pond Limits                      | Water Monitoring Stations and Measurements<br>(required weekly or daily)  |
|--------------------------------|--------|------------|------------------------|-----------------|------------------|--|---|
|                                |        |            | Latitude (N)           | Longitude (W)   |                  |  |   |
| Barren Pond                    | R      | T24 MD BPP | 44° 50' 23.59"         | -67° 52' 21.19" | 5/1 to 9/30      | -1 ft. thru 7/15; -2 ft. thru 9/30               | Stage at pump site.   |
| Bog Stream                     | A      | T18 MD BPP | 44° 44' 36.96"         | -67° 54' 56.81" | 5/1 to 9/30      | 1800 gpm   | Stream flow augmentation, also see Table 2.   |
| Campbell Park Reservoir        | A      | T24 MD BPP | 44° 47' 4.36"          | -67° 53' 32.71" |                  |  | None, man-made storage pond.  |
| Crossroads Well I              | A      | T25 MD BPP | 44° 51' 49.86"         | -67° 45' 04.54" | 5/1 to 9/30      | 2000 gpm   | Water level at wells 98-05, 03-11, 03-13 and 03-14.   |
| Crossroads Well II             | A      | T25 MD BPP | 44° 51' 31.03"         | -67° 45' 14.28" | 5/1 to 9/30      | 2500 gpm   | Water level at wells 98-01, 03-11, 08-11 and 08-12A.  |
| Duck Pond                      | R      | T24 MD BPP | 44° 50' 02.68"         | -67° 52' 27.05" | 5/1 to 9/30      | -1 ft. thru 7/15; -2 ft. thru 9/30               | Stage at pump site.   |
| Duck Pond Well I               | A      | T24 MD BPP | 44° 50' 06.70"         | -67° 52' 30.91" | 5/1 to 9/30      | 100 gpm  | Not used for irrigation.  |
| East Crebo Well I              | R      | T18 MD BPP | 44° 46' 45.03"         | -67° 53' 17.46" | 5/1 to 9/30      | 500 gpm  | Water level at wells 98-32 and 99-56; Stage at Beaver Pond at SG-20.  |
| East Crebo Well II             | A      | T18 MD BPP | 44° 46' 42.64"         | -67° 53' 35.85" | 5/1 to 9/30      | 1400 gpm   | Water level at wells 99-91, 99-93 and 00-02.  |
| East Crebo Well III            | A      | T18 MD BPP | 44° 46' 35.18"         | -67° 53' 40.56" | 5/1 to 9/30      | 1500 gpm   | Water level at wells 00-03, 07-07, 07-10A and 07-11.  |
| East Pike Brook Pond           | R      | T18 MD BPP | 44° 42' 55.40"         | -67° 54' 32.67" | 5/1 to 9/30      | -1 ft. thru 7/15; -2 ft. thru 9/30               | Stage at pump site.   |
| Goose Pond                     | A      | T24 MD BPP | 44° 50' 09.84          | -67° 53' 01.76" | 5/1 to 9/30      | -2 ft. thru 9/30 (maximum -1 ft. per 7 days)     | Stage at pump site.   |
| Frankie Dow Memorial Reservoir | A      | T24 MD BPP | 44° 51' 27.25"         | -67° 51' 17.49" |                  |  | None, man-made storage pond.  |
| Horseshoe Pond                 | R      | T18 MD BPP | 44° 42' 16.39"         | -67° 54' 17.59" | 5/1 to 9/30      | -1 ft. thru 7/15; -2 ft. thru 9/30               | Stage at pump site.   |
| Long Pond                      | R      | T18 MD BPP | 44° 45' 50.57"         | -67° 55' 38.88" | 5/1 to 9/30      | -3 ft. thru 9/30 (maximum -1.5 ft. per 7 days)   | Stage at pump site, also see Table 2.   |
| Long Pond (Augmentation)       |        | T18 MD BPP |                        |                 | 5/1 to 9/30      | 8 million gallons per year                       | NHWM, see also Table 2.   |
| Long Pond Well I               | R      | T18 MD BPP | 44° 45' 45.48"         | -67° 55' 41.07" | 5/1 to 9/30      | 1000 gpm   | Water level at wells 03-03, 05-01, and 05-02; Stage at Long Pond.   |
| Long Pond Well II              | A      | T18 MD BPP | 44° 45' 39.87"         | -67° 55' 41.67" | 5/1 to 9/30      | 2000 gpm   | Water level at wells 03-03, 05-01, and 05-02; Stage at Long Pond.   |
| Montegail Pond North           | R      | T19 MD BPP | 44° 45' 40.73"         | -67° 46' 01.30" | 5/1 to 9/15      | -1.6 ft. thru 9/15 (maximum -0.8 ft. per 7 days) | Stage at pump site.   |
| Montegail Pond South           | A      | T19 MD BPP | 44° 45' 04.45"         | -67° 46' 19.89" | 5/1 to 9/15      | -1.6 ft. thru 9/15 (maximum -0.8 ft. per 7 days) | Stage at pump site.   |
| Montegail Pond West            | R      | T19 MD BPP | 44° 45' 11.84"         | -67° 46' 41.24" | 5/1 to 9/15      | -1.6 ft. thru 9/15 (maximum -0.8 ft. per 7 days) | Stage at pump site.   |
| Nature's Bridge Well I         | A      | T19 MD BPP | 44° 44' 46.95"         | -67° 46' 40.94" | 5/1 to 11/30     | 3000 gpm   | Water level at wells 03-16 and 03-17.   |
| Oak Pond Well I                | A      | T24 MD BPP | 44° 51' 14.80"         | -67° 51' 08.33" | 5/1 to 9/30      | 2500 gpm   | Water level at wells 03-10, 06-04, and 06-08;<br>Stage at Little Mopang Stream at SG-26 and SG-27.  |
| Oak Pond Well II               | A      | T24 MD BPP | 44° 51' 52.89"         | -67° 51' 54.32" | 5/1 to 9/30      | 1800 gpm   | Water level at wells 09-02, 09-03, 09-04, and 09-05;<br>Stage at Little Mopang Stream at SG-24 and SG-25;<br>Stage at Hadley Lake (west). |
| Otter Pond                     | A      | T24 MD BPP | 44° 49' 36.42"         | -67° 55' 50.59" | 5/1 to 9/30      | -1 ft. thru 9/30 (maximum -0.5 ft. per 7 days)   | Stage at pump site.   |
| Oxbow Well I                   | A      | T18 MD BPP | 44° 43' 32.49"         | -67° 55' 12.98" | 5/1 to 9/30      | 2000 gpm   | Water level at wells 00-06 and 00-10, see also Table 2.   |
| Pike Brook Well I              | A      | T18 MD BPP | 44° 42' 35.86"         | -67° 54' 24.14" | 5/1 to 9/30      | 2100 gpm   | Water level at wells 00-13, 02-01 and 02-02.  |
| Pike Brook Well II             | A      | T18 MD BPP | 44° 42' 32.75"         | -67° 54' 37.54" | 5/1 to 9/30      | 2500 gpm   | Water level at wells 12-13 and 02-01; Stage at West Pike Brook Pond.  |
| Pleasant River Well I          | A      | T18 MD BPP | 44° 46' 42.35"         | -67° 55' 11.99" | 5/1 to 9/30      | 2000 gpm   | Water level at wells 02-05, 02-06 and 06-06;<br>Stage at Pleasant River at SG-16 and SG-16A, see also Table 2.                            |
| Pretty Barrens Reservoir       | A      | T18 MD BPP | 44° 47' 21.12"         | -67° 49' 17.16" |                  |  | None, man-made storage pond.  |
| Pretty Pond                    | A      | T24 MD BPP | 44° 49' 44.88"         | -67° 54' 17.54" | 5/1 to 9/30      | -3 ft. thru 9/30 (maximum -1.5 ft. per 7 days)   | Stage at pump site, also see Table 2.   |
| Pretty Pond (Augmentation)     |        | T24 MD BPP |                        |                 |                  | 20 million gallons per year                      | Gallons pumped from Oak Pond Well I, see also Table 2.  |
| Public Lot Well I              | A      | T19 MD BPP | 44° 46' 26.91"         | -67° 44' 35.76" | 5/1 to 9/30      | 2000 gpm   | Water level at wells 99-68 and 00-34.   |
| Public Lot Well II             | A      | T19 MD BPP | 44° 45' 59.90"         | -67° 46' 19.14" | 5/1 to 9/30      | 2500 gpm   | Water level at wells 10-01 and 10-02; Stage at Small Bog Pond at SG-01,<br>Big Bog Pond at SG-02, and Montgail Pond South.                |
| Rocky Lake                     | R      | T25 MD BPP | 44° 50' 54.70"         | -67° 45' 44.47" | 5/1 to 9/30      | -0.85 ft. thru 7/15; -1.7 ft. thru 9/15          | Stage at pump site.   |
| Rocky Lake Well I              | A      | T25 MD BPP | 44° 50' 46.12"         | -67° 44' 50.74" | 5/1 to 9/30      | 2000 gpm   | Water level at wells 07-11, 08-11 and 13-11; Stage at Rocky Lake.   |
| Sam Hill Well I                | A      | T25 MD BPP | 44° 52' 51.16"         | -67° 44' 41.76" | 5/1 to 9/30      | 2200 gpm   | Water level at wells 98-08, 98-09, 98-10, 00-S1 and 08-13;<br>Stage at Sam Hill Brook at SG-28 and SG-29.                                 |
| Schoodic Lake                  | R      | T18 MD BPP | 44° 42' 06.26"         | -67° 53' 08.76" | 5/1 to 9/15      | -1 ft.   | Stage at pump site.   |
| Spring Hole Pond               | R      | T18 MD BPP | 44° 43' 05.98"         | -67° 54' 54.35" | 5/1 to 9/30      | -1 ft. thru 7/15; -2 ft. thru 9/30               | Stage at pump site.   |
| Unnamed Pond                   | R      | T18 MD BPP | 44° 43' 25.83"         | -67° 55' 04.41" | 5/1 to 9/30      | -0.45 ft. thru 7/15; -0.9 ft. thru 9/30          | Stage at pump site.   |
| West Pike Brook Pond           | R      | T18 MD BPP | 44° 42' 44.42"         | -67° 54' 51.57" | 5/1 to 9/30      | -1 ft. thru 7/15; -2 ft. thru 9/30               | Stage at pump site.   |
| Worcester Lot Well I           | A      | T24 MD BPP | 44° 46' 48.64"         | -67° 55' 36.53" | 5/1 to 9/30      | 500 gpm  | Water level at wells 98-22, see also Table 2.   |

Pumping rate is measured in gpm (gallons per minute)

Stream flow is measured in cfs (cubic feet per second)

Stage is measured in feet above or below NHWM (normal high water mark)

R = Reserved Site; A = Active Site

**Table 2 - Summary of Monitoring and Reporting Requirements**

**Monitoring Requirements** (Overall Period of Monitoring is May 1 to November 1, except Nature's Bridge Well I which is May 1 to November 30).

|                              |  |
|------------------------------|--|
| <b>Surface Water Sites</b>   |  |
| Active:                      | Monitor monthly pond/lake stage in feet above or below NHWM, or stream stage prior to and after pumping.<br>Monitor weekly during use pond/lake stage or stream stage.<br>Measure or calculate weekly volume of water pumped in gallons.<br>Calculate average pumping rate in gpm for each week of use.  |
| Reserved:                    | Monitor only if used.  |
| <b>Groundwater Sites</b>     |  |
| All Sites:                   | Monitor monthly water level at monitoring wells in feet below land surface prior to and after pumping.<br>Monitor weekly during use water level at monitoring wells in feet below land surface.<br>Monitor weekly during use volume of water pumped in gallons.<br>Calculate average pumping rate in gpm for each week of use.   |
| <b>Specific Sites</b>        |  |
| Bog Stream:                  | Monitor stream using automated stage gauge, augmentation flow, and withdrawal rates.<br>Implement Bog Stream Augmentation Plan, dated April 2009.<br>Assure the hatchery wells are operating when stream withdrawals occur.  |
| East Crebo Well I:           | Monitor weekly stage of beaver pond at SG-20 during use.   |
| Long Pond Well (s):          | Monitor weekly stage of Long Pond during use of Long Pond Well(s).   |
| Long Pond Augmentation:      | Calculate volume and average pumping rate of augmentation water for each week.<br>Spray augmentation water over pond to aerate the water (avoid erosion and sedimentation to the pond).<br>Augmentation, bathymetric data, documentation, and water quality monitoring as determined in consultation with MDEP.<br>Sample parameters of Long Pond and mixed flow (Pleasant River Well I, Worcester Well I and Oxbow Well I) as determined in consultation with MDEP. |
| Nature's Bridge Well I:      | Monitor weekly volume of well water pumped to Pretty Barrens Reservoir at any time during the year.  |
| Oak Pond Well I:             | Collect continuous stream stage data at SG-26 and SG-27 on Little Mopang Stream.<br>Continuous monitoring of observation well 06-02 or pumping well.   |
| Oak Pond Well II:            | Collect continuous stream stage data at SG-24 and SG-25 on Little Mopang Stream.<br>Continuous monitoring of observation well 09-02 or pumping well.   |
| Pretty Pond Augmentation:    | Calculate volume and average pumping rate of augmentation water or each week.<br>Transfer must only be Oak Pond Well I water to Pretty Pond.<br>Spray augmentation water over pond to aerate the water (avoid erosion and sedimentation to the pond).<br>Augmentation, documentation, and water quality monitoring as determined in consultation with MDEP.  |
| Pleasant River Well I:       | Collect continuous stream stage data at SG-16 and SG-16A on the Pleasant River.<br>Continuous monitoring of observation well 02-06 or pumping well.  |
| Pleasant River Augmentation: | Divert flow from the Pleasant River Well I at 0.55 cfs when pump is being operated.<br>Measure diverted flow, volume, and rate.  |
| Public Lot Well II:          | Monitor weekly stage in feet at SG-1; SG-2 and Montegail Pond.   |
| Sam Hill Well I:             | Monitor continuously stream stage in feet at SG-28 and SG-29.<br>Continuous monitoring of observation well 98-09 or pumping well.  |

**Reporting Requirements**

|  |   |
|--|---|
| <b>On-demand reports*</b>                        | Send to LUPC's Augusta office:<br>(1) Tables of volumes pumped, pumping rates, and hours of operation for any requested water withdrawal station.<br>(2) Tables of augmentation volume and discharge rate for any river/stream/pond/lake.<br>(3) Tables of monitoring well water levels for any requested water withdrawal station.<br>(4) Tables of stream stage data for any requested site.  |
| <b>Annual Hydrological Report</b><br>(due 12/31) | For each water withdrawal site:<br>(1) Table(s) of weekly volume pumped and average pumping rate for each week of operation in gpm.<br>(2) Table(s) and chart(s) of pond/lake stage, monitoring well levels, stream stage.<br>(3) Evaluation of the affect of the pumping of wells on adjacent surface water bodies and wetlands, as applicable.<br>(4) Table(s) of weekly volume pumped and average pumping rate of water transferred to any augmentation/storage.<br>(5) Results of water quality sampling, and assessment of the affect of the augmentation/storage as required by MDEP agreement.<br>(6) Assessment of compliance with MDEP's Chapter 587 flow and lake level rules for all groundwater and surface water sites.<br>(7) Daily precipitation records for the region. |

Reports followed by an asterisk (\*) may be submitted electronically; NHWM = normal high water mark; gpm = gallons per minute; cfs = cubic feet per second

## **APPENDIX B**

### **Administrative History<sup>3</sup>**

1. Prior to May 8, 2003, Cherryfield Foods, Inc. was issued multiple permits for surface water withdrawal and/or groundwater well sites for the purpose of agricultural irrigation including Development Permits: DP 3624, as amended; DP 4513, as amended; DP 4579, as amended; DP 4580, as amended; DP 4581, as amended; DP 4582, as amended; and DP 4625.
2. Development Permit DP 4636, issued to Cherryfield Foods, Inc. on May 8, 2003, consolidated all surface water withdrawal and groundwater well sites for agricultural irrigation under one permit. In addition, the permit authorized the augmentation of Sam Hill Brook during the pumping of the Sam Hill Well and the transfer of groundwater pumped from the Worcester Lot Well to Long Pond for storage. Both activities included requirements for testing water quality to assure that groundwater transferred to a surface water site would not adversely affect the surface water.
3. Amendment A to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on May 7, 2007, authorized, among other items: the use of three (3) new groundwater wells: the Oxbow Well, the Crossroads I Well, and the Nature's Bridge Well; placed ten (10) previously approved surface water withdrawal sites on "Reserved" status; and due to the well's proximity to the Pleasant River, placed the Pleasant River Well on pending status. The permit expired December 31, 2004.
4. Amendment B to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on August 5, 2004, authorized a two-week pump test on the Pleasant River Well. The permit expired December 31, 2004.
5. Amendment C to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on April 27, 2005, authorized for the 2005 irrigation season: an increase in the maximum pumping rate of three groundwater wells (the Oxbow Well, the Crossroads Well, and the Natures Bridge Well); the use of the Pleasant River groundwater well, with continued use contingent upon review and subject to groundwater, wetland and stage monitoring, and data analysis and reporting; the continuation of "Reserved" status, withdrawal limits, and hydrologic monitoring of seven surface water withdrawal sites [Bog Stream, East Pike Brook Pond, Horseshoe Pond, Rocky Lake, Spring Hole Pond, Unnamed Pond and West Pike Brook Pond]; and a revised water quality monitoring plan and reporting change at Sam Hill Well and Sam Hill Brook. The permit also authorized: the deletion of three "Reserved" surface water withdrawal sites [Beech Hill Brook, Big Hill (West Branch of the Narraguagus River) and Moose Run (Mopang Stream)]; the discontinuation of dissolved oxygen and temperature monitoring and reporting for transfers of water between the Worcester Lot groundwater well and the Long Pond surface water withdrawal site; and the elimination of portions of the wetland monitoring program. Finally, the permit authorized an assortment of changes to the monitoring program and reporting protocols. The permit expired December 31, 2005.
6. Amendment D to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on May 5, 2006, authorized, among other items, a detailed assortment of "Active" and "Reserve" surface water withdrawal and groundwater well sites for the purpose of agricultural irrigation which included a detailed monitoring, analysis and reporting program. The permit also authorized multiple decreases in maximum pump rates of various groundwater wells, the deletion of various monitoring point, the status change of Schoodic Lake and Long Pond surface water withdrawal sites from "Active" to "Reserved", the deletion of Bog Stream surface water withdrawal site, the deletion of certain requirements related to Natures Bridge groundwater well and

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<sup>3</sup> Information presented in the Administrative History is intended to be a summary only and may lack specific details of previously permitted activities. A copy of a particular permit action, containing a complete and detailed description of activities authorized under that action, may be obtained through requests in writing to: Maine Land Use Planning Commission; 22 State House Station; Augusta, Maine 04333

Montegail Pond, the addition of the Long Pond Well, and the continued use of the Pleasant River Well until September 2006 with monitoring, analysis and reporting requirements. Finally, the permit authorized an assortment of other changes to the monitoring, analysis and reporting protocols. Except as noted above, the permit expired December 31, 2010.

7. Amendment E to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on July 3, 2007, authorized, among other items, the use of the Pleasant River and Oak Pond groundwater wells, for the 2007 season only, for the purpose of agricultural irrigation which included a detailed monitoring, analysis and reporting program. Amendment E further granted approval for all other withdrawal sites until December 31, 2010.
8. Amendment F to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on November 28, 2007, authorized a structure to house the irrigation pump at Pretty Pond for security reason; the amendment did not otherwise amend Development Permit DP 4636.
9. Amendment G to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on July 11, 2008, authorized: the use of the Pleasant River groundwater well at a maximum rate of 2,000 gpm with augmentation of the flow of the Pleasant River at the same rate and procedures as previously permitted (the authorization include a detailed monitoring, analysis and reporting plan of the groundwater well and of the Pleasant River); the use of the Duck Pond Well at a maximum rate of 800 gpm; the use of East Crebo Well I at a maximum rate of 500 gpm; the use of East Crebo Well III at a maximum rate of 1,500 gpm; the continued use of Oak Pond Well and the use of Oak Pond Well to augment Pretty Pond; the resumption of use of the Bog Stream surface water withdrawal site, with augmentation from four hatchery wells in Deblois for the 2008 season only; and the extension of the operating period of the Natures Bridge Well to coincide with the Pretty Barrens Cranberry Bog operations. Finally, the permit authorized an assortment of changes to the monitoring program, analysis and reporting protocols.
10. Amendment H to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on May 12, 2009, authorized: continued use of the Pleasant River Well with augmentation of the Pleasant River, continued use of the Oak Pond Well with augmentation of Pretty Pond; continued use of Bog Stream surface water withdrawal with augmentation using the Deblois hatchery wells; use of the Cross Roads II Well; augmentation of the Pretty Barrens Reservoir using the Nature's Bridge Well; the deletion of the Duck Pond I well as an irrigation source; and a multitude of other evaluated uses and an assortment of changes to the monitoring program, analysis and reporting protocols.
11. Amendment I to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on May 21, 2010, authorized: the continued use of the Pleasant River Well; continued use of the Bog Stream surface water withdrawal site with augmentation using the Deblois fish hatchery wells; and the continued storage/augmentation of Pretty Pond with water from the Oak Pond Well.
12. Amendment J to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on May 09, 2011, authorized: amendment approval to pump water from thirty-two (32) previously permitted irrigation water sources and two (2) new groundwater irrigation wells; changes to various monitoring frequencies; the elimination of the requirement to submit a mid-season report; and refined hydrologic monitoring requirements for individual water sources. The permit also stated procedures and requirements for Montegail Pond and Otter Pond and Pretty Pond and Long Pond augmentation.
13. Amendment K to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on September 22, 2011, authorized the construction of Campbell Park Reservoir, a 3.0 acre man-made storage pond for spring frost

protection, and a pump house to protect the associated irrigation pump, fuel tank and other related equipment.

14. Amendment L to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on April 05, 2012, authorized two (2) new groundwater irrigation wells (Long Pond II Well and Rocky Lake I Well) with specific periods of operation, maximum pumping rates and monitoring requirements.
15. Amendment M to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on July 16, 2012, authorized changes to the water quality monitoring and flow requirements for Montegail Pond and Otter Pond. Further the permit authorized the adoption of specific procedures for augmentation, minimum water levels and water quality monitoring as recommended by the MDEP for Pretty Pond and Long Pond.
16. Amendment N to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on April 02, 2013, authorized augmentation of Long Pond, in addition to the current augmentation from the Worchester Lot Well, with water pumped from the Pleasant River Well and the Oxbow Well. The permit further modified the maximum seasonal drawdown for Montegail Pond South and Otter Pond and added Goose Pond as a surface water withdrawal site.
17. Amendment O to Development Permit DP 4636, issued to Cherryfield Foods, Inc. on June 26, 2013, authorized a man-made storage pond (the Frankie Dow Memorial Reservoir) and a 20 foot by 20 foot pump house.



STATE OF MAINE  
DEPARTMENT OF CONSERVATION  
MAINE LAND USE REGULATION COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0022

**STANDARD CONDITIONS OF APPROVAL FOR ALL DEVELOPMENT PERMITS**

1. The permit certificate must be posted in a visible location on your property during development of the site and construction of all structures approved by this permit.
2. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation therefrom is subject to the prior review and approval of the Maine Land Use Regulation Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Regulation Commission law.
3. Construction activities authorized in this permit must be substantially started within two (2) years of the effective date of this permit and substantially completed within five (5) years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
4. The recipient of this permit ("permittee") shall secure and comply with all applicable licenses, permits, and authorizations of all federal, state and local agencies including, but not limited to, natural resources protection and air and water pollution control regulations and the Subsurface Wastewater Disposal Rules of the Maine Department of Environmental Protection and the Maine Department of Human Services.
5. Setbacks of all structures, including accessory structures, from waterbodies, roads and property boundary lines must be as specified in conditions of the permit approval.
6. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and advised of the conditions of approval. The new owner or lessee must contact the Land Use Regulation Commission to have the permit transferred into his/her name and to reflect any changes proposed from the original application and permit approval.
7. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
8. The permittee shall not advertise Land Use Regulation Commission approval without first obtaining Commission approval for such advertising. Any such advertising shall refer to this permit only if it also notes that the permit is subject to conditions of approval.
9. Once construction is complete, the permittee shall notify the Commission that all requirements and conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.