

**North Dakota Department of Environmental Quality Public Notice
Reissue of an NDPDES Permit**

Public Notice Date: 11/10/2021

Public Notice Number: ND-2021-031

Purpose of Public Notice

The Department intends to reissue the following North Dakota Pollutant Discharge Elimination System (NDPDES) Discharge Permit under the authority of Section 61-28-04 of the North Dakota Century Code.

Permit Information

Application Date: 7/15/2021

Application Number: NDP026816

Applicant Name: Cavendish Farms Inc.

Mailing Address: PO Box 1980, Jamestown, ND 58402-1980

Telephone Number: 701.952.6218

Proposed Permit Expiration Date: 12/31/2026

Facility Description

Cavendish Farms is located at 5855 3rd St. SE., Jamestown, ND 58401 in Stutsman County. Cavendish Farms operates a frozen potato product processing operation that requires a permit issued under the North Dakota Pollution Discharge Elimination System program. This permit is for the treated process wastewater discharge from the potato processing operations to Jamestown's Publicly Owned Treatment Works (POTW). This discharge is a new source subject to 40 CFR Part 407.46 - the permitted discharge must comply with 40 CFR Part 403 and applicable state and local regulations.

Tentative Determinations

Proposed effluent limitations and other permit conditions have been made by the Department. They assure that State Water Quality Standards and applicable provisions of the FWPCA will be protected.

Information Requests and Public Comments

Copies of the application, draft permit, and related documents are available for review. For further information on making public comments/public comment tips please visit: <https://deq.nd.gov/PublicCommentTips.aspx>. Comments or requests should be directed to the ND Dept of Env Quality, Div of Water Quality, 4201 Normandy Street, Bismarck ND 58503-1324 or by calling 701.328.5210.

All comments received by December 11, 2021 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

STATEMENT OF BASIS FOR NDPDES PERMIT – NDP026816

**CAVENDISH FARMS –
Industrial Pretreatment (Categorical Industrial User – Frozen Potato Products)**

DATE OF THIS FACT SHEET – October 2021

INTRODUCTION

The Federal Clean Water Act (CWA, 1972, and later amendments in 1977, 1981, and 1987, etc.) established water quality goals for the navigable (surface) waters of the United States. One mechanism for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES), which the US Environmental Protection Agency (EPA) oversees. In 1975, the State of North Dakota was delegated primacy of the NPDES program by the EPA. The North Dakota Department of Environmental Quality, hereafter referred to as “department”, has been designated the state water pollution control agency for all purposes of the CWA as amended [33 U.S.C. 1251, et seq.], and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of the act and similar federal acts. The department’s authority and obligations for the wastewater discharge permit program is in North Dakota Administrative Code (NDAC) article 33.1-16, which was adopted under North Dakota Century Code (NDCC) chapter 61-28. In North Dakota, these permits are referred to as North Dakota Pollutant Discharge Elimination System (NDPDES) permits.

This facility falls under the Industrial Pretreatment Program, which is under the NDPDES program. The department was delegated pretreatment authority from the EPA in 2005. The following regulations apply to NDPDES permits issued to Significant and/or Categorical Industrial Users:

- Procedures the department follows for issuing NDPDES permits (NDAC chapter 33.1-16-01);
- North Dakota Pretreatment Regulations (NDAC chapter 33.1-16-01.1);
- Code of Federal Regulations (CFR) General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR Section 403).

These rules require industrial users that introduce pollutants into publicly owned treatment works (POTWs) comply with applicable Pretreatment Standards and Requirements. To protect POTWs an industrial user permit or similar control mechanism must be obtained prior to discharge. Regulations adopted by the state also define the basis for limits on each discharge and for other requirements imposed by the permit.

According to NDAC section 33.1-16-01-08, the department must prepare a draft permit and accompanying statement of basis and make it available for public review. The department must also publish an announcement (public notice) during a period of thirty days, informing the public where a draft permit may be obtained and where comments regarding the draft permit may be sent (NDAC section 33.1-16-01-07). For more information regarding preparing and submitting comments about the statement of basis and permit, please see **Appendix A – Public Involvement**. Following the public comment period, the department may make changes to the

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CAVENDISH FARMS
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draft NDPDES permit. The department will summarize the responses to comments and changes to the permit in **Appendix D – Response to Comments**.

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BACKGROUND INFORMATION

Table 1 - General Facility Information

Applicant:	Cavendish Farms Inc.
Address:	5855 3 rd Street SE Jamestown, ND 58401
Owner:	Cavendish Farms Inc.
Operator:	Cavendish Farms Inc.
Facility Contact(s):	Patrick Ackerman Maintenance and Engineering Manager 701.952.6218 Paul Sanders Process Waste Treatment and Facilities Supervisor 701.552.6114
Standard Industrial Classification Code(s):	2037
North American Industrial Classification System Code(s):	311411
Industrial User Type:	Categorical Industrial User
Applicable Categorical Standards:	40 CFR 407.46 – Frozen Potato Products, Standards for New Sources
NDPDES Permit Number:	NDP026816
Permit Type:	Reissue – Minor, Pretreatment
Facility Discharge Location:	Internal from pretreatment system

Table 2 - Receiving Publicly Owned Treatment Works Information

Receiving POTW:	City of Jamestown
POTW Name and Address:	Jamestown City of 102 3 rd Ave SE Jamestown, ND 58401
POTW Contact(s):	Ron Olson, Operator 701.252.9149

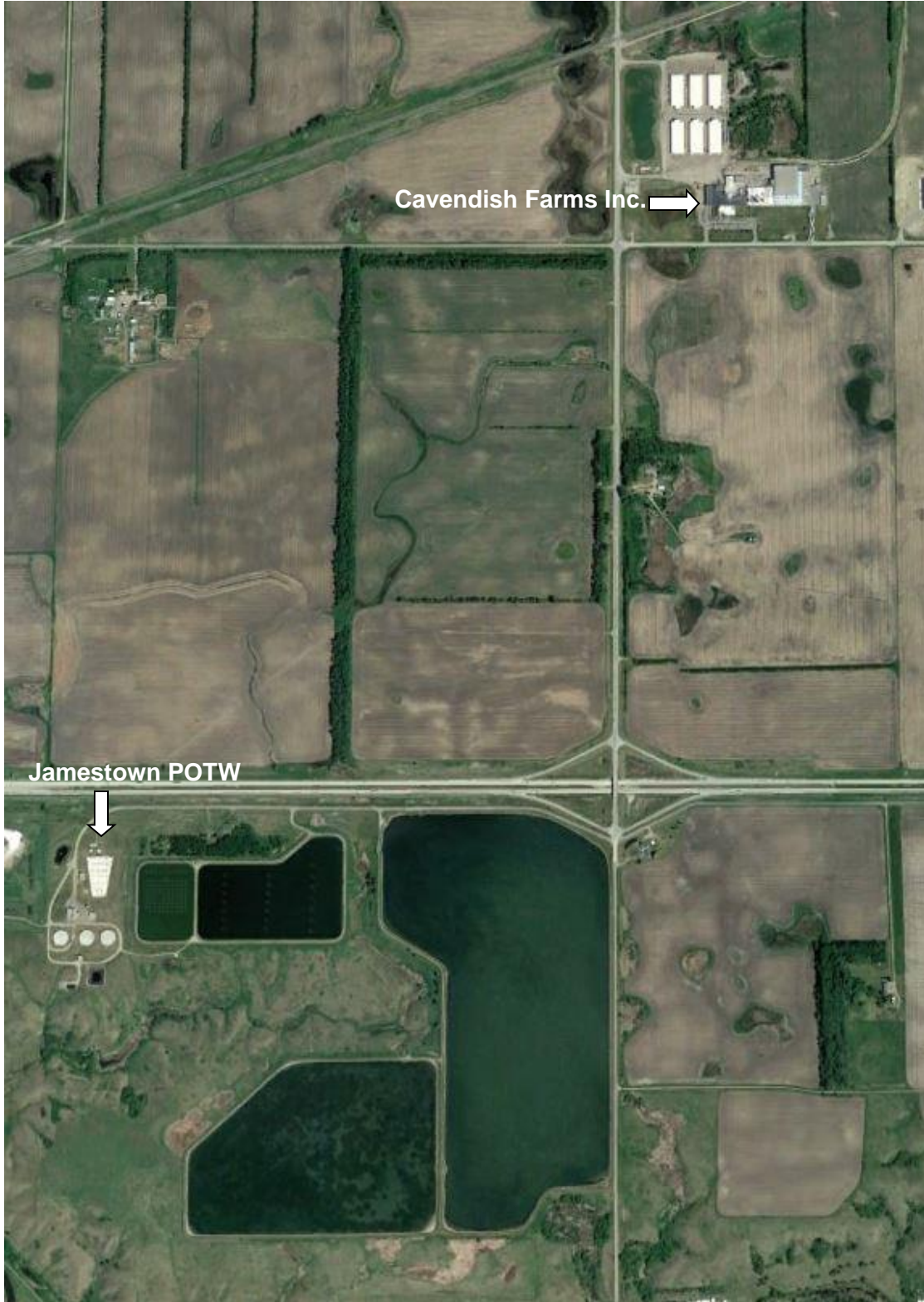


Figure 1 – Location overview of Cavendish Farms Inc. in the City of Jamestown, Stutsman County, North Dakota in relation to the Jamestown POTW (Google Earth 6/4/2017)

DESCRIPTION OF OPERATIONS

Cavendish Farms operates a potato processing facility in Jamestown, North Dakota. The facility washes and processes raw potatoes and produces frozen potato products for retail and restaurant markets.

The frozen potato products processing includes:

- Raw potato handling areas
- Potato scrubber
- Steam peeler
- Mechanical Peel separation
- Potato polishing
- Pulse Electric Field Treatment (pre-cutter treatment)
- Cutting
- Sorting
- Blanching
- Drying
- Batter application to potato products
- Frying potatoes
- Freezing product, and
- Packaging.

Potatoes are brought into the facility through a flume that is trenched into the floor. This washes the potatoes. The water used in this process is part of a closed-loop system. The water from the potato washing goes into one of three settling basins. The water is reused in the washing process and the silt is settled out and land applied. The settling basin can overflow to the POTW. When this happens, the overflow is combined with the rest of the potato processing discharge, the boiler and cooling tower discharge, and the sanitary discharge.

After washing, the potatoes go through a steam peeler, and are skinned and polished. The potatoes then advance to the Pulse Electric Field treatment and pumped through the hydro-cutters. The hydro-cutters use water to convey the potatoes. This is another closed-loop system, with the water being treated for starch removal. Once the starch is removed from the water, the water is reused for hydro-cutting.

After the potatoes are peeled and cut they are sorted and blanched. The blanching removes enzymes from the potatoes. Blanching uses water in a closed circulation loop with a low flow of make-up water. Fresh water is continually added to this process, with the overflow from the process being routed to the pretreatment system. After blanching, the potatoes are dried and then sent to batter application and then to the fryer or are dried and sent straight to the fryer. The products are then flash frozen and packaged.

Pretreatment Processes

All the wastewater, except for those streams that are reused, accumulate in the process wastewater treatment (PWT) building. The water is collected, pumped up, and filtered through screens. After screening the water is routed to the clarifier. The solids from the screening

process are collected, combined with solids that are pulled off the bottom of the clarifier, and sold as animal feed to a feedlot.

The clarifier skims off any oil, which is collected and sold or donated for reprocessing. Water from the clarifier is split, with 60% getting returned to the system for reuse, and the other 40% being discharged. Treated process wastewater, sanitary sewer, and boiler blowdown/cooling tower blowdown are combined prior to entering the POTW collection system.

The facility is equipped with trenches and floor drains throughout every process area and in the oil storage and chemical storage rooms. Any spills are collected and routed to the PWT for treatment.

Production Rate

During the past 5 years, Cavendish Farms processed an annual average of 375,924,647 pounds of potatoes which are processed into French fries and formed potato products. The facility is a continuous discharger and operates seven days per week, with the facility shutting down for scheduled maintenance for five to seven days annually. Based on DMR data submitted to the department, the average daily wastewater flow rate is 891,700 gallons per day, with a peak flow of 1,847,000 gallons per day.

Permitted Outfall Description

The authorization to discharge provided under this proposed permit is limited to the outfall specifically designated as the permitted discharge location. Discharge at any location not authorized under an NDPDES permit is a violation of the CWA and could subject the person(s) responsible for such discharge to penalties under Section 309 of the CWA. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge within the specified timeframe outlined in this permit could subject such person(s) to criminal penalties as provided under the CWA.

The permittee will collect all final effluent samples from Outfall 001. In addition, the permittee shall collect internal samples of the process wastewater following pretreatment and prior to combining with other waste streams.

Outfall 001. Active – Final Pretreatment			
Latitude: 46.906656	Longitude: -98.622797	County: Stutsman	
Township: 140N	Range: 63W	Section: 27	QQ: CD
Description: The onsite pretreatment system receives regulated wastewater from the frozen potato products processing operation. Process wastewater, sanitary sewer, and boiler blowdown/cooling tower blowdown are combined prior to final effluent sampling. Outfall 001 is located on the southeast corner of the facility in a manhole outside prior to discharge to the POTW.			

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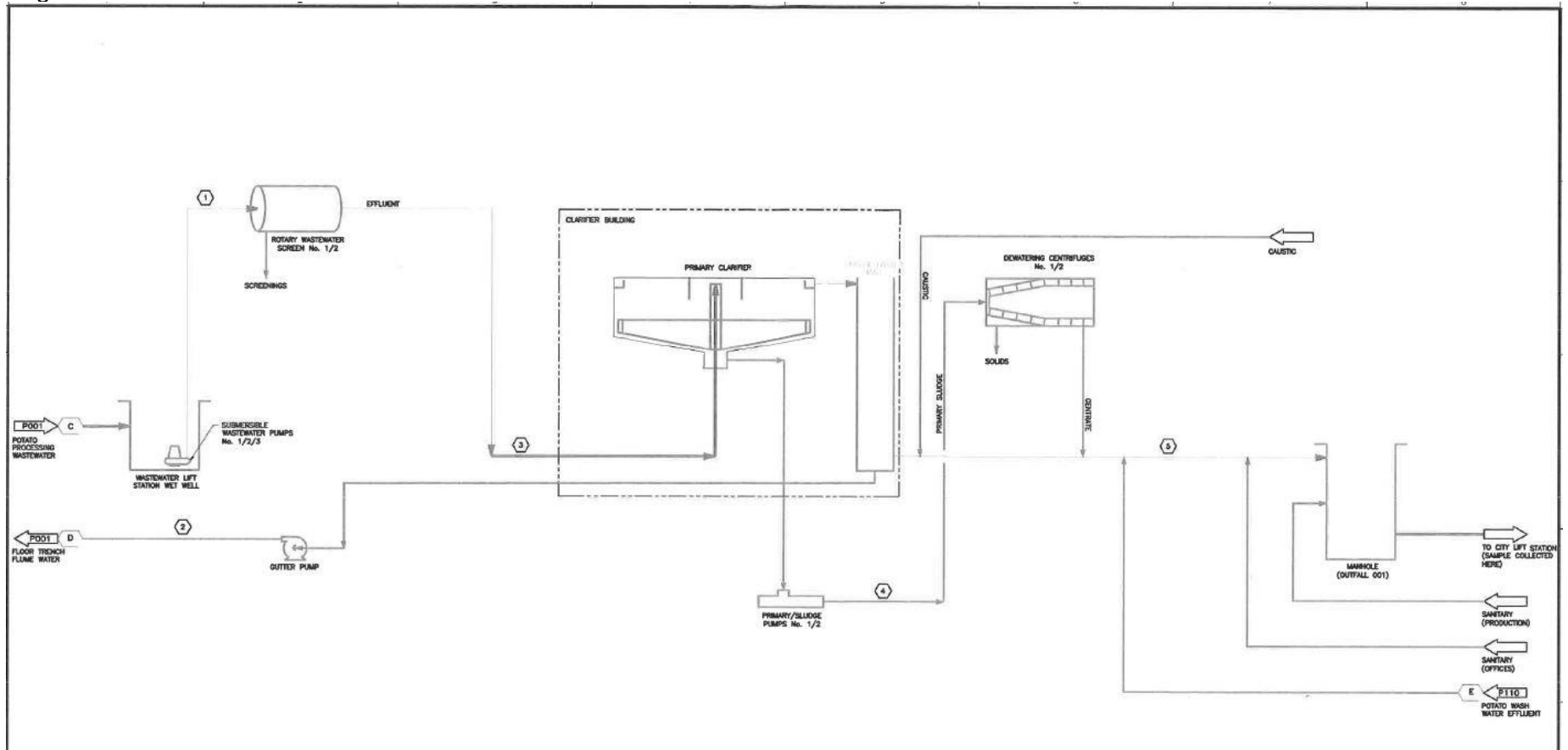


Figure 2 – Process Flow Diagram for Cavendish Farms Inc.

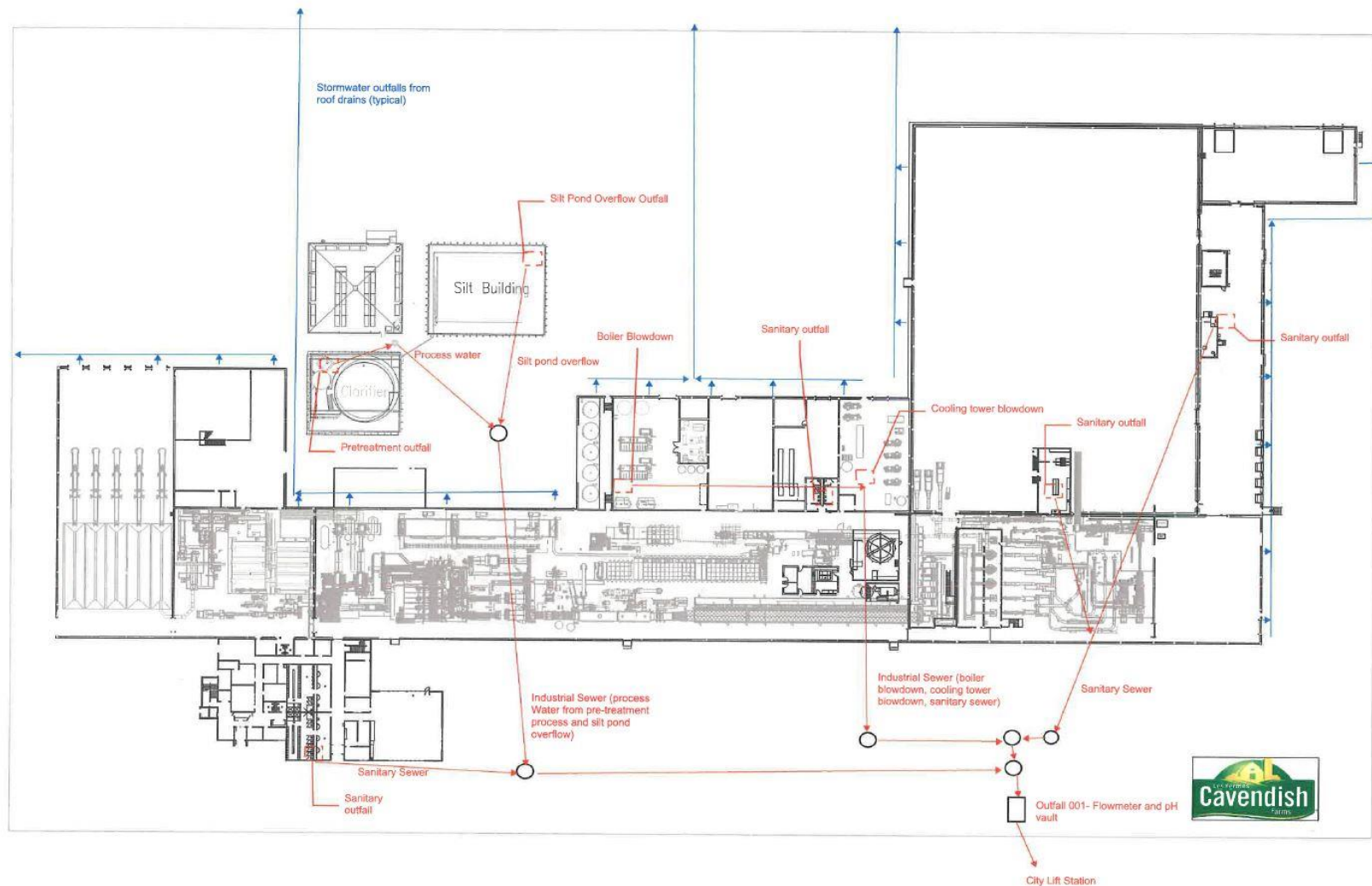


Figure 3 - Facility Overview with Outfall 001 Location

PERMIT STATUS

Cavendish Farms was first issued an individual pretreatment permit by the department in 2017. Prior to 2017 the facility operated under a permit-by-rule status. The current permit placed limits on pH and Temperature, and had monitoring requirements for Total Facility Flow, Process Flow, Oil and Grease, Total Suspended Solids (TSS), Chemical Oxygen Demand (COD), and Total Kjeldahl Nitrogen (TKN). On July 15, 2021, the department received a completed renewal application (Appendix C – Sample Permit Application Form) from Cavendish Farms which was accepted by the department on September 13, 2021.

This facility is a Categorical Industrial User and is therefore subject to pretreatment regulations described in NDAC 33.1-16-01.1(4). The department proposes to reissue an individual pretreatment permit to Cavendish Farms that allows process wastewater discharge after treatment from the potato processing operation to the City of Jamestown POTW.

SUMMARY OF COMPLIANCE WITH PRETREATMENT REGULATIONS AND CATEGORICAL LIMITS

Two industrial user compliance inspections have been conducted during the recent permit cycle. In 2016 the department conducted a joint inspection with EPA and the department conducted an additional inspection in 2021.

The most recent inspection performed on March 24, 2021, showed that two pH exceedances had occurred and that the facility had failed to notify the department as required. In addition, the operation and maintenance manual was outdated and needs to be updated.

Past Discharge Data

The concentration of pollutants from Outfall 001 were reported on DMRs. The data are characterized as shown in the below table:

Table 3 - DMR Data for Outfall 001 (January 1, 2017 through October 1, 2021)

Parameter	Range	Average	Permit Limit	Number of Exceedances
Total Facility Flow (mgal)	0.724 – 1.847	0.8917	Report	N/A
Process Flow (gpd)	0.703 – 1,278,520	476,110	Report	N/A
pH (s.u.)	4.02 – 12.84	N/A	5.5 – 12.5	120
Temperature (°C)	25 – 37	28.32	40	0
Oil and Grease (mg/l)	156.7 – 2126	517.17	Report	N/A
TSS (mg/l)	1,700 – 127,358	14,895	Report	N/A
COD (mg/l)	6,446 – 186,484	46,781	Report	N/A
TKN (mg/l)	151 – 3372	1047.7	Report	N/A
Notes:				
Cavendish Farms discharged to the City of Jamestown POTW a total of 1,461 days during the current permit cycle.				

PROPOSED PERMIT LIMITATIONS AND SELF-MONITORING REQUIREMENTS

Cavendish Farms is a Categorical Industrial User subject to wastewater monitoring from its potato processing facility under 40 CFR 407.46 – Frozen Potato Products, Standards for New Sources. Any new source subject to 40 CFR 407.46 pretreatment standards that introduces process wastewater into a POTW must comply with 40 CFR Part 403 and provisions of the permit.

State regulations require limitations set forth in a wastewater discharge permit must be based on the technology available to treat the pollutants (technology based) or be based on the effects of the pollutants to the POTW (local limits). Wastewater must be treated using all known, available, and reasonable treatment (AKART) and not interfere with the operation of the POTW.

Technology-Based Effluent Limitations

NDPDES permits issued by the department must specify conditions requiring available and reasonable methods or prevention, control, and treatment of discharges to waters of the state. Federal categorical limitations for this facility are found under 40 CFR 407.46.

Local Limits

The City of Jamestown is currently developing an industrial pretreatment program as required by the department. The POTW currently has an agreement with Cavendish Farms to monitor for additional parameters not part of Federal categorical limits based off of the treatment capabilities of the POTW. Until a program has been approved, the department remains the pretreatment Control Authority. Pollutant loading from wastewater discharge with technology-based controls in place is not expected to cause problems such as interference, pass-through, or hazardous exposure to workers at the POTW, nor result in unacceptable pollutant levels in the POTW's sludge.

The permittee is required to submit an effluent characterization for all parameters listed on the application form. The permittee indicated that they expected metals (antimony, arsenic, barium, beryllium, cadmium, chromium, copper, cyanide, lead, nickel, phenols, selenium, silver, thallium, and zinc) to be present in their discharge. The City of Jamestown POTW regularly tests for metals in the influent and effluent of their treatment train, and has no exceedances of the water quality standards, thus the department did not deem it necessary to include metals as required parameters at this time. This may be reevaluated at any time to ensure compliance.

The minimum monitoring schedule is detailed below in Table 5. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance, pollutant significance, and monitoring cost.

Table 4 - Effluent Limitation Basis

Parameter	Daily Maximum	Basis ^a
pH, Internal (s.u.)	Report	40 CFR 407.46; 40 CFR 403.5; NDAC 33.1-16-01.1(4); BPJ
pH (s.u.)	Between 5.0 and 12.5 at all times	40 CFR 407.46; 40 CFR 403.5; NDAC 33.1-16-01.1(4); Previous Permit; BPJ
Temperature, Internal (°C)	Report	40 CFR 407.46; 40 CFR 403.5; NDAC 33.1-16-01.1(4); BPJ
Temperature (°C)	40	40 CFR 407.46; 40 CFR 403.5; NDAC 33.1-16-01.1(4); Previous Permit
Notes:		
*	This parameter is not limited. However, the department may impose limitations based on sample history and to protect the POTW.	
a	The basis for the effluent limitations is given below: “Previous Permit” refers to limitations in the previous permit. The NDPDES regulations 40 CFR part 122.44(l)(1) Reissued Permits require that when a permit is renewed or reissued, interim limitations, standards, or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit unless the circumstances on which the previous permit was issued have materially and substantially changed since the previous permit was issued and would constitute cause for permit modification or revocation and reissuance under 40 CFR Part 122.62. “BPJ” refers to best professional judgement.	

Samples and measurements shall be representative of the nature of the regulated wastewater discharge. Internal samples and measurements shall be taken of the process generated wastewater prior to combining with any other streams. Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the CWA codified in 40 CFR 136.

Any additional monitoring and reporting to demonstrate compliance with pretreatment requirements and standards under 40 CFR 403.12 are to be reported on the semiannual DMR.

Self-Monitoring Requirements

Monitoring, recording, and reporting are specified to verify that the treatment process is functioning correctly and to verify compliance with permit limitations. The permittee is required to collect samples that are representative of the discharge wastewater. Samples shall be taken during a normal workday when typical operations are in progress and the usual process wastewaters are generated. The facility will collect internal samples following pretreatment from the clarifier and will collect final effluent samples from the identified manhole following waste stream combining.

The minimum monitoring schedule is detailed below:

Table 5 - Self-Monitoring Requirements

Parameter	Frequency	Sample Type ^{a,b}
pH, (s.u.) ^c	Continuously	Instantaneous
Temperature, (°C)	Continuously	Instantaneous
Oil and Grease, (mg/l)	Semiannual	Grab
Total Suspended Solids (TSS), (mg/l)	Semiannual	Composite
Chemical Oxygen Demand (COD), (mg/l)	Semiannual	Composite
Total Kjeldahl Nitrogen (TKN), (mg/l)	Semiannual	Composite
Total Facility Flow, (gpd)	Daily	Calculated (meter)
Drain, (MG)	Semiannual	Calculated
Internal Parameters		
pH, (s.u.) ^c	Continuously	Instantaneous
Temperature, (°C)	Continuously	Instantaneous
Process Flow, (gpd)	Daily	Calculated (meter)
Notes:		
a	Composite samples must be representative of the quality of the discharge. A 24-hour composite sample proportioned according to flow is required where feasible. If unfeasible, the composite shall consist of a minimum of twelve (12) separate grab samples and proportioned as to flow. Sampling may be proportioned to flow by varying the time interval between each aliquot, or by varying the volume of each aliquot.	
b	Grab samples must be representative of the process waste stream and shall be a single, discrete sample collected over a period not exceeding 15 minutes.	
c	The department has determined that, based on Best Professional Judgement, continuous pH monitoring consisting of recordings no less than once every fifteen (15) minutes during periods of discharge is representative of the facility's waste stream.	

The permittee shall promptly notify the department and the POTW in advance of any substantial change in the volume or character of pollutants in the permittee's discharge as outlined in 40 CFR 403.12(j).

OTHER PERMIT CONDITIONS

General Prohibitions

The permittee shall not introduce into the POTW any pollutant(s) which cause pass through or interference.

Specific Prohibition

The following pollutants may not be introduced into the POTW from any source:

1. Pollutants which create a fire or explosion hazard in the POTW, including waste streams with a closed cup flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21.
2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the POTW is specifically designed to accommodate such discharges.
3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
4. Any pollutant released in a discharge at a flow rate or pollutant concentration which will cause interference.
5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds forty degrees Celsius (104-degree Fahrenheit), unless the department, upon request of the POTW, approves alternate temperature limits.
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or passthrough.
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

Dilution Prohibition

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

Reporting Requirements

Reporting requirements are found in NDAC 33.1-16-01.1-12 Additional reporting requirements may be implemented by the control authority. Conditions are based on the authority to specify any appropriate reporting requirements to prevent and control waste discharges.

pH

The permittee is required to report minimum pH, maximum pH, and the number of pH exceedances from Outfall 001 for each reporting period. Individual pH readings shall be recorded no less than once per 15-minute periods during periods of discharge. This is consistent with NDPDES permitted industrial users with continuous pH monitoring with like flow.

A single pH exceedance shall be noted upon pH falling outside of the assigned limits for a period less than or equal to 15 minutes; all excursions measured within this 15-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 5-minute period thereafter in which one or more excursions have been measured.

The facility shall notify the POTW and department for each pH excursion, regardless of length of time, as required in **Section II.F(1) Twenty-Four Hour Notice of Noncompliance Reporting** of the permit. These requirements are subject to modification by the department to protect the receiving POTW.

Operations and Maintenance

Proper operation and regular maintenance ensure constructed facilities are used to their optimum potential in terms of pollutant capture and treatment. An Operation and Maintenance (O & M) Manual shall be required. This manual shall detail procedures for sampling during or prior to the discharge of wastewater. The manual shall list the person responsible for sampling and identify a list of responsible parties to notify in the event of a pretreatment process failure. This manual shall be kept on site and be updated when sampling procedures change.

Spill and Slug Discharge Control Plan

The department has the authority to require the permittee to develop Best Management Practices to prevent a sludge discharge or a spill release as stated in NDAC 33.1-16-01.1 Appendix A. A slug discharge is any discharge of a nonroutine, episodic nature, including an accidental spill or a noncustomary batch discharge. Where required, the permittee must develop a plan for preventing the release of pollutants to the POTW and/or waters of the state and minimizing damages if such a discharge/spill occurs. The plan shall include the following:

1. A description of discharge practices for batch and continuous processes under normal and non-routine circumstances;
2. A list of all raw materials, products, chemicals, and hazardous materials used, processed, or stored at the facility; the normal quantity maintained on the premises for each listed material and a map showing where they are located;
3. Procedures for immediately notifying the publicly owned treatment works of slug discharges, including any discharge that would violate a prohibition under subsection

2 of section 33.1-16-01.1-02, with procedures for follow up written notification within five days; and

4. Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures of equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.

The result of any slug discharge or spill shall be available to the department upon request.

The facility's Emergency Spill Response Plan details spill and slug management and was submitted to the department on July 15, 2021 which had a revision date of February 7, 2020. The current plan does not meet the requirement of notifying the POTW. During the first year of this permit cycle, the permittee will review and update the plan as necessary to meet the listed requirements and submit an updated plan to the department. If an updated plan already exists, that plan can be submitted.

Public Notification of Noncompliance

A list of all industrial users that were in significant noncompliance with Pretreatment Standards or Requirements during any portion of a reporting period may be annually published by the department in a local newspaper. Accordingly, the permittee is apprised that noncompliance with this permit may result in publication of the noncompliance.

PERMIT ISSUANCE PROCEDURES

Permit Modifications

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance does not stay any permit condition.

Proposed Permit Issuance

This proposed permit meets all statutory requirements for the department to authorize a wastewater discharge. The department proposes to issue this permit for a term of five (5) years.

APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to issue an industrial user wastewater discharge permit to the **Cavendish Farms**. The permit includes wastewater discharge limits and other conditions. This statement of basis describes the facility and the basis for requiring a permit.

The department will place a Public Notice of Draft on **November 10, 2021** in the **Jamestown Sun** to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and statement of basis.

The Notice –

- Tells where copies of the draft permit and statement of basis are available for public evaluation.
- Offers to provide assistance to accommodate special needs.
- Urges people to submit their comments before the end of the comment period.
- Informs the public that if there is significant interest, a public hearing will be scheduled.

You may obtain further information from the department by telephone, 701.328.5210 or by writing to the address listed below:

North Dakota Department of Environmental Quality
Division of Water Quality
4201 Normandy Street
Bismarck, ND 58503

The primary author of this permit and statement of basis is Sarah Waldron Feld.

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APPENDIX B – DEFINITIONS Pretreatment Permit BP 2020.11.12

1. "**Act**" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended [33 U.S.C. 1251, et seq.].
2. "**Approval authority**" means the department.
3. "**Best management practices**" or "**BMPs**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
4. "**Bypass**" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
5. "**Categorical industrial user**" means an industrial user that is subject to a categorical pretreatment standard or categorical standard.
6. "**Categorical pretreatment standard**" or "**categorical standard**" means any regulation containing pollutant discharge limits promulgated by the environmental protection agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.
7. "**Control authority**" means either:
 - a. The publicly owned treatment works, if the publicly owned treatment works which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08; or
 - b. The department, if the publicly owned treatment works which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08.
8. "**Department**" means the North Dakota Department of Environmental Quality, Division of Water Quality.
9. "**Director**" means the department.
10. "**DMR**" means discharge monitoring report.
11. "**EPA**" means the United States Environmental Protection Agency.
12. "**Indirect discharge**" means the introduction of pollutants into a publicly owned treatment works from any nondomestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.

13. "**Industrial user**" or "**user**" means a source of indirect discharge.
14. "**Interference**" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:
 - a. Inhibits or disrupts the publicly owned treatment works processes or operations, or its sludge processes, use or disposal; and
 - b. Causes a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation or prevents sewage sludge use or disposal in compliance with federal or state law or statute.
15. "**New source**" means:
 - a. Any building, structure, facility, or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
 - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
 - c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
 - (1) Begun, or caused to begin as part of a continuous onsite construction program:
 - (a) Any placement, assembly, or installation of facilities or equipment; or
 - (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or

equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

16. "**Passthrough**" means a discharge which exits the publicly owned treatment works 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 publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
17. "**Pretreatment**" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
18. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
19. "**Pretreatment standards**" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
20. "**Publicly owned treatment works**" or "**POTW**" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
21. "**Publicly owned treatment works treatment plant**" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.

22. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which renders 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.

23. "**Significant industrial user**" means:

- a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01.1-04 and 33.1-16-01-31;
- b. Any other industrial user that meets at least one of the following criteria:
 - (1) Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water and boiler blowdown wastewater;
 - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
 - (3) Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.
- c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
 - (3) The industrial user never discharges any untreated concentrated wastewater.
- d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.

STATEMENT OF BASIS FOR NDPDES PERMIT NDP026816

CAVENDISH FARMS

EXPIRATION DATE – DECEMBER 31, 2026

Page 25 of 27

24. "**Upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.
25. "**Water management division director**" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

DRAFT

APPENDIX C – CALCULATIONS

The department reviewed DMR information, NDAC 33.1-16, 40 CFR Part 403, and 40 CFR Part 407 to determine appropriate requirements to be placed in this permit.

DRAFT

APPENDIX D – RESPONSE TO COMMENTS

Any comments received during the public comment period will be addressed here.

DRAFT

Permit No: NDP026816
Effective Date: January 1, 2022
Expiration Date: December 31, 2026

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33.1-16-01.1 of the North Dakota Department of Environmental Quality rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

Cavendish Farms
5855 3rd Street SE
Jamestown, ND 58401

is authorized to discharge from its facility in Jamestown, North Dakota

to the City of Jamestown Publicly Owned Treatment Works

provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,

Month Day, Year

Signed this _____ day of _____, _____.

Karl H. Rockeman, P.E.
Director
Division of Water Quality

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DRAFT

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DEFINITIONS Pretreatment Permit - BP 2020.11.12

1. "**Act**" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended [33 U.S.C. 1251, et seq.].
2. "**Approval authority**" means the department.
3. "**Best management practices**" or "**BMPs**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
4. "**Bypass**" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
5. "**Categorical industrial user**" means an industrial user that is subject to a categorical pretreatment standard or categorical standard.
6. "**Categorical pretreatment standard**" or "**categorical standard**" means any regulation containing pollutant discharge limits promulgated by the environmental protection agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.
7. "**Control authority**" means either:
 - a. The publicly owned treatment works, if the publicly owned treatment works which receives the indirect discharge administers an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08; or
 - b. The department, if the publicly owned treatment works which receives the indirect discharge does not administer an approved pretreatment program in accordance with sections 33.1-16-01.1-06 and 33.1-16-01.1-08.
8. "**Department**" means the North Dakota Department of Environmental Quality, Division of Water Quality.
9. "**Director**" means the department.
10. "**DMR**" means discharge monitoring report.
11. "**EPA**" means the United States Environmental Protection Agency.
12. "**Indirect discharge**" means the introduction of pollutants into a publicly owned treatment works from any nondomestic source regulated under 307(b), (c), or (d) of the Federal Water Pollution Control Act.

13. "**Industrial user**" or "**user**" means a source of indirect discharge.
14. "**Interference**" means an indirect discharge which, alone or in conjunction with any other indirect discharges, both:
 - a. Inhibits or disrupts the publicly owned treatment works processes or operations, or its sludge processes, use or disposal; and
 - b. Causes a violation of any requirement of the publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation or prevents sewage sludge use or disposal in compliance with federal or state law or statute.
15. "**New source**" means:
 - a. Any building, structure, facility, or installation for which construction commenced after the publication of proposed pretreatment standards which will apply to such source after promulgation, from which there is or may be an indirect discharge, provided that:
 - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the indirect discharge at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 2 and 3 of subdivision a, but otherwise alters, replaces or adds to existing process or production equipment.
 - c. Construction of a new source as defined under this subsection has commenced if the owner or operator has:
 - (1) Begun, or caused to begin as part of a continuous onsite construction program:
 - (a) Any placement, assembly, or installation of facilities or equipment; or
 - (b) Significant site preparation work which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not

constitute a contractual obligation under this subsection.

16. "**Passthrough**" means a discharge which exits the publicly owned treatment works 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 publicly owned treatment works North Dakota pollutant discharge elimination system permit, including an increase in the magnitude or duration of a violation.
17. "**Pretreatment**" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the publicly owned treatment works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
18. "**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
19. "**Pretreatment standards**" means any regulation which applies to industrial users that contains pollutant discharge limits promulgated by the environmental protection agency in accordance with the Federal Water Pollution Control Act, including prohibitive discharge limits established pursuant to section 33.1-16-01.1-02.
20. "**Publicly owned treatment works**" or "**POTW**" means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a state or municipality, including any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial wastes, as well as sewers, pipes, and other conveyances that convey wastewater to a publicly owned treatment works treatment plant. This term also means the municipality that has jurisdiction over the indirect discharges to and the discharges from the treatment works.
21. "**Publicly owned treatment works treatment plant**" means that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.
22. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which renders 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.
23. "**Significant industrial user**" means:
 - a. All industrial users subject to categorical pretreatment standards under sections 33.1-16-01.1-04 and 33.1-16-01-31;

- b. Any other industrial user that meets at least one of the following criteria:
- (1) Discharges an average of twenty-five thousand gallons [94,635 liters] per day or more of process wastewater to the publicly owned treatment works, excluding sanitary wastewater, noncontact cooling water and boiler blowdown wastewater;
 - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or
 - (3) Is designated as a significant industrial user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement.
- c. The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
- (1) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
 - (3) The industrial user never discharges any untreated concentrated wastewater.
- d. Upon a finding that an industrial user which meets the criteria of subdivision b has no reasonable potential for adversely affecting the publicly owned treatment works operation or for violating any pretreatment standard or requirement, the control authority may, at any time, determine that the industrial user is not a significant industrial user.
24. "**Upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. Upset does not include noncompliance to the extent caused by operational error, inadequate or improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.
25. "**Water management division director**" means the director of the water management division of the regional office of the United States environmental protection agency or this person's delegated representative.

OUTFALL DESCRIPTION

Outfall 001. Active – Final Pretreatment			
Latitude: 46.906656	Longitude: -98.622797	County: Stutsman	
Township: 140N	Range: 63W	Section: 27	QQ: CD
Description: The onsite pretreatment system receives regulated wastewater from the frozen potato products processing operation. Process wastewater, sanitary sewer, and boiler blowdown/cooling tower blowdown are combined prior to final effluent sampling. Outfall 001 is located on the southeast corner of the facility in a manhole outside prior to discharge to the POTW.			

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
001A	Discharge Monitoring Report	Semiannually	July 31, 2022
001A	Spill and Slug Discharge Control Plan	1/permit cycle	January 31, 2023
Application Renewal	NDPDES Application Renewal	1/permit cycle	June 30, 2026

SPECIAL CONDITIONS

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.

The permittee must develop a spill and slug discharge control plan as detailed in NDAC 33.1-16-01.1 Appendix A, representing best management practices to prevent release of pollutants to the POTW and/or waters of the state and minimizing damages if a sludge discharge or spill occurs.

I. LIMITATIONS AND MONITORING REQUIREMENTS

A. Discharge Authorization

During the effective period of this permit; the permittee is authorized to discharge pollutants from Outfall 001 as specified to the **City of Jamestown Publicly Owned Treatment Works (POTW)**.

This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in this permit application process.

B. Effluent Limitations and Monitoring

The permittee must comply with 40 CFR Part 403 and 40 CFR Part 407.46 and limit and monitor all discharges as specified below:

Table 1 – Effluent Limitations and Monitoring Requirements for Outfall 001A.

Parameter	Effluent Limitations		Monitoring Requirements	
	Daily Maximum ^a	Maximum Monthly Average ^b	Sample Type	Frequency
pH, (s.u.) ^{c, f}	Between 5.0 and 12.5 at all times		Instantaneous	Continuously
Temperature, (°C)	40	Report	Instantaneous	Continuously
Oil and Grease, (mg/l)	Report	Report	Grab ^d	Semiannual
Total Suspended Solids (TSS), (mg/l)	Report	Report	Composite ^e	Semiannual
Chemical Oxygen Demand (COD), (mg/l)	Report	Report	Composite ^e	Semiannual
Total Kjeldahl Nitrogen (TKN), (mg/l)	Report	Report	Composite ^e	Semiannual
Total Facility Flow, (gpd)	Report	Report	Calculated (Meter)	Daily
Drain, (MG)	Report		Calculated	Semiannual
Internal Parameters				
pH, (s.u.) ^f	Report		Instantaneous	Continuously
Temperature, (°C)	Report	Report	Instantaneous	Continuously
Process Flow, (gpd)	Report	Report	Calculated (Meter)	Daily
Notes:				

a.	The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during the calendar day.
b.	The maximum monthly average limitation is defined as the highest average of daily discharges over a calendar month – calculated by the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The highest of these averages is then reported.
c.	The pH, an instantaneous limitation, shall be between 5.0 and 12.5 S.U. The permittee is required to report minimum pH, maximum pH, and the number of pH exceedances. Individual pH readings shall be recorded no less than once per 15-minutes during periods of discharge; all excursions measured within this 15-minute period shall be reported as a single exceedance. An additional pH exceedance shall be noted for each 15-minutes period thereafter in which one or more excursions have been measured.
d.	Grab samples must be representative of the process waste stream and shall be a single, discrete sample collected over a period not exceeding 15 minutes.
e.	Composite samples must be representative of the quality of the discharge. A 24-hour composite sample proportioned according to flow is required where feasible. If unfeasible, the composite shall consist of a minimum of twelve (12) separate grab samples and proportioned as to flow. Sampling may be proportioned to flow by varying the time interval between each aliquot, or by varying the volume of each aliquot.
f.	The department has determined that, based on best professional judgement, continuous pH monitoring consisting of recordings no less than once every fifteen (15) minutes during discharge is representative of the facility's process waste stream.

II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.06.07

A. Representative Sampling (Routine and Non-Routine Discharges)

All samples and measurements taken shall be representative of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited under Part I.B. Effluent Limitations and Monitoring requirements of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with B. Test Procedures. The permittee must report all additional monitoring in accordance with D. Additional Monitoring.

B. Test Procedures

The collection and transportation of all samples shall conform with EPA preservation techniques and holding times found in 40 CFR 136. All laboratory tests shall be performed by a North Dakota certified laboratory in conformance with test procedures pursuant to 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.

C. Recording of Results

Records of monitoring information shall include:

1. the date, exact place and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the name of the laboratory;
4. the date(s) and time(s) analyses were performed;
5. the name(s) of the individual(s) who performed the analyses;
6. the analytical techniques or methods used; and
7. the results of such analyses.

D. Additional Monitoring

If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with B. Test Procedures, shall be included in the summary on the Discharge Monitoring Report.

E. Reporting of Monitoring Results

1. Monitoring results shall be summarized and reported to the department using Discharge Monitoring Reports (DMRs). If no discharge occurs during a reporting period, "No Discharge" shall be reported. The permittee must submit DMRs electronically using the electronic information reporting system unless requirements in subsection 3 are met.
2. Prior to December 21, 2025, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2025, the permittee must report the following using the electronic reporting system:
 - a. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];
 - b. Municipal separate storm sewer system program reports;
 - c. Pretreatment program reports;
 - d. Sewer overflow/bypass event reports; and

- e. Clean Water Act 316(b) annual reports
3. The permittee may seek a waiver from electronic reporting. To obtain a waiver, the permittee must complete and submit an Application for Temporary Electronic Reporting Waiver form (SFN 60992) to the department. The department will have 120 days to approve or deny the waiver request. Once the waiver is approved, the permittee may submit paper versions of monitoring data and reports to the department.
- a. One of the following criteria must be met in order to obtain a waiver. The department reserves the right to deny any waiver request, even if they meet one of the criteria below.
 - 1. No internet access,
 - 2. No computer access,
 - 3. Annual DMRs (upon approval of the department),
 - 4. Employee turnover (3-month periods only), or
 - 5. Short duration permits (upon approval of the department)

All reports must be postmarked by the last day of the month following the end of each reporting period. All original documents and reports required herein shall be signed and submitted to the department at the following address:

ND Department of Environmental Quality
Division of Water Quality
4201 Normandy Street
Bismarck, ND 58503

F. Records Retention

All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the department or EPA.

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

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

B. Proper Operation and Maintenance

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.

C. Planned Changes

The department and POTW shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increases, or process modifications which might result in changes in volume and/or characteristic of discharged pollutants, including hazardous wastes which have been made aware to the department as required by 40 CFR 403.12(p) shall be reported to the department as soon as possible. Changes which may result in a facility being designated a "new source" as determined in 40 CFR 403.3(m)(1) shall also be reported.

D. 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. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.

E. Signatory Requirements

All applications, reports, or information submitted to the department shall be signed and certified.

All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.

All reports required by the permit and other information requested by the department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

The authorization is made in writing by a person described above and submitted to the department; and

The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under E. Signatory Requirements is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared

under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. Notice of Potential Problems

The permittee is required to immediately notify the receiving POTW of all discharges that may cause problems to the POTW. This includes slug loadings, as defined by 40 CFR 403.5(b).

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee shall immediately report any noncompliance which may endanger health or the environment. Any information shall be provided orally as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The following occurrences of noncompliance shall be included in the oral report to the department at 701.328.5210:
 - a. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit under I. Bypass of Treatment Facilities;
 - b. Any upset which exceeds any effluent limitation in the permit under H. Upset Conditions; or
 - c. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.
2. A written submission shall also be provided within five days of the time that the permittee became aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
 - d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Reports shall be submitted to the address in Part II.E. Reporting of Monitoring Results. The department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the department at 701.328.5210 as identified above.

If sampling performed by an industrial user indicates a violation, the user shall repeat the sampling and analysis and submit the results of the repeat analysis to the department within 30 days after becoming aware of a violation as instructed in 40 CFR 403.12(g)(2).

All other instances of noncompliance shall be reported no later than at the time of the next Discharge Monitoring Report submittal. The report shall include all items listed in this subsection.

H. Hazardous Waste

The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, additional parameters as defined in 40 CFR 403.12(p) are to be included in the written notification.

I. Bypass of Treatment Facilities

1. 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 any of the following provisions in this section.
2. Bypass exceeding limitations-notification requirements.
 - a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.
 - b. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under G. Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of Bypass. 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 the 1. Anticipated Bypass subsection of this section.

The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three (3) conditions listed above.

J. Upset Conditions

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph 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.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the permittee can identify its cause(s);
2. The permitted facility was, at the time being, properly operated;
3. The permittee submitted notice of the upset as required under G. Twenty-four Hour Notice of Noncompliance Reporting and
4. The permittee complied with any remedial measures required under K. Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

K. 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. The permittee, at the department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.

L. Removed Materials

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the state. The permit issuing authority shall be contacted prior to the disposal of any sewage sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

M. Duty to Reapply

Any request to have this permit renewed should be made six months prior to its expiration date.

IV. GENERAL PROVISIONS

A. Inspection and Entry

The permittee shall allow department and EPA representatives, at reasonable times and upon the presentation of credentials if requested, to enter the permittee's premises to inspect the wastewater treatment facilities and monitoring equipment, to sample any discharges, and to have access to and copy any records required to be kept by this permit.

B. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the department and EPA. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

C. Transfers

This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent department approval. The current permit holder must provide notification to the POTW and a copy of the existing permit shall be provided to the new owner or operator.

D. New Limitations or Prohibitions

The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations even if the permit has not yet been modified to incorporate the requirements.

E. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. 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.

F. 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.

G. State Laws

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.

H. Oil and Hazardous Substance Liability

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 Act.

I. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

J. Severability

The provisions of this permit are severable, and if any provision of this permit or the

application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

K. Penalties

Nothing in this permit may be construed to relieve the permittee from civil and/or criminal penalties for noncompliance.

V. PROHIBITED DISCHARGES

A. General Prohibition

The permittee shall not introduce into the POTW any pollutant which causes pass through or interference.

B. Specific Prohibitions

The following pollutants may not be introduced into the POTW from any source:

1. Pollutants which create a fire or explosion hazard in the POTW, including waste streams with a closed cup flashpoint of less than sixty (60) degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21.
2. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the POTW is specifically designed to accommodate such discharges.
3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
4. Any pollutant released in a discharge at a flow rate or pollutant concentration which will cause interference.
5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds forty degrees Celsius (104-degree Fahrenheit), unless the department, upon request of the POTW, approves alternate temperature limits.
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or passthrough.
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

C. Dilution Prohibition

The permittee is prohibited from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limitations.