

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2009-0805-WQ-E **TCEQ ID:** RN103886719 **CASE NO.:** 37677  
**RESPONDENT NAME:** Cal-Maine Foods, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Cal-Maine Waelder Feedmill, located on the east side of South Railroad Street, Waelder, Gonzales County</p> <p><b>TYPE OF OPERATION:</b> Feed mill</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 19, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> CT Corporation System, Registered Agent, Cal-Maine Foods, Inc., 350 North Saint Paul Street, Dallas, Texas 75201  Mr. Joe Wyatt, Vice President, Cal-Maine Foods, Inc., P.O. Box 2960, Jackson, Mississippi 39207  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 30, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to conduct a survey of potential non-storm water sources within 180 days of filing the Notice of Intent ("NOI"). Specifically, the NOI for the permit renewal was submitted October 31, 2006, but no survey was conducted [Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050647 Part III Permit Requirements and Conditions Section A. 3. and 30 TEX. ADMIN. CODE § 305.125(1)].</p> <p>2) Failure to conduct periodic inspections. Specifically, no inspections were conducted to evaluate the effectiveness of good housekeeping measures, spill prevention and response and other requirements of the permit on a quarterly basis for the four quarters in 2008 and the first quarter of 2009 [TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 5.g. and 30 TEX. ADMIN. CODE § 305.125(1)].</p> <p>3) Failure to establish an employee training program and conduct employee training at least once per year. Specifically, the Respondent did not conduct employee training in 2007 and 2008 [TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 5. f. and 30 TEX. ADMIN. CODE §</p>	<p><b>Total Assessed:</b> \$10,968</p> <p><b>Total Deferred:</b> \$2,193  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$8,775</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Conduct and record the survey of non-storm water discharge sources;</p> <p>ii. Establish an employee training program and employee education for employees who are responsible for implementing and maintaining activities identified in the Storm Water Pollution Prevention Plan ("SWP3"); and</p> <p>iii. Begin conducting and recording the annual quarterly inspections to determine the effectiveness of the SWP3.</p> <p>b. Within 60 days after the effective date of this Agreed Order, conduct annual comprehensive site compliance evaluation; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through b.</p>

<p>305.125(1)].</p> <p>4) Failure to conduct annual comprehensive site compliance evaluations [TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 7. and 30 TEX. ADMIN. CODE § 305.125(1)].</p>		
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Additional ID No(s): TXR050647





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	11-May-2009	Screening	18-May-2009	EPA Due	
	PCW	22-May-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Cal-Maine Foods, Inc.		
Reg. Ent. Ref. No.	RN103886719		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37677	No. of Violations	4
Docket No.	2009-0805-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

**Compliance History**  Subtotals 2, 3, & 7

Notes

**Culpability**   Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Subtotal 6

Total EB Amounts	\$1,606	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$2,100	

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

**Screening Date** 18-May-2009

**Docket No.** 2009-0805-WQ-E

**PCW**

**Respondent** Cal-Maine Foods, Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 37677

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN103886719

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

The Respondent received one previous NOV for the same violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)**

**Screening Date** 18-May-2009 **Docket No.** 2009-0805-WQ-E **PCW**  
**Respondent** Cal-Maine Foods, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 37677 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103886719  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson  
**Violation Number** 1  
**Rule Cite(s)** Texas Pollutant Discharge Elimination System ("TPDES") Multi Sector General Permit ("MSGP") No. TXR050647 Part III Permit Requirements and Conditions Section A. 3. and 30 Tex. Admin. Code § 305.125(1)  
**Violation Description** Failed to conduct a survey of potential non-storm water sources within 180 days of filing the Notice of Intent ("NOI"). Specifically, the NOI for the permit renewal was submitted October 31, 2006, but no survey was conducted.  
**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 38

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$1,000

One quarterly event is recommended from the period of April 10, 2009 (date of the record review) to May 18, 2009 (date of screening).

Good Faith Efforts to Comply

**0.0%** Reduction **\$0**  
 Before NOV NOV to EDRP/Settlement Offer  
 Extraordinary    
 Ordinary    
 N/A  (mark with x)  
 Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$69

Violation Final Penalty Total \$1,219

This violation Final Assessed Penalty (adjusted for limits) \$1,219

## Economic Benefit Worksheet

**Respondent** Cal-Maine Foods, Inc.  
**Case ID No.** 37677  
**Reg. Ent. Reference No.** RN103886719  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	30-Apr-2007	31-Jan-2010	2.76	\$69	n/a	\$69

**Notes for DELAYED costs**  
 Estimated cost to conduct survey potential of non-storm water discharge sources. Date required is the date the survey was required. Final date is the projected date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500 TOTAL \$69

<b>Screening Date</b> 18-May-2009	<b>Docket No.</b> 2009-0805-WQ-E	<b>PCW</b>															
<b>Respondent</b> Cal-Maine Foods, Inc.		<small>Policy Revision 2 (September 2002)</small>															
<b>Case ID No.</b> 37877		<small>PCW Revision October 30, 2008</small>															
<b>Reg. Ent. Reference No.</b> RN103886719																	
<b>Media [Statute]</b> Water Quality																	
<b>Enf. Coordinator</b> Cheryl Thompson																	
<b>Violation Number</b> <input type="text" value="2"/>																	
<b>Rule Cite(s)</b>	TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 5.g. and 30 Tex. Admin. Code § 305.125(1)																
<b>Violation Description</b>	Failed to conduct periodic inspections. Specifically, no inspections were conducted to evaluate the effectiveness of good housekeeping measures, spill prevention and response and other requirements of the permit on a quarterly basis for the four quarters in 2008 and the first quarter of 2009.																
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
	<b>Harm</b>																
	Major	Moderate	Minor														
<b>OR</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Actual</td> <td style="width:50px;"><input type="text"/></td> <td style="width:50px;"><input type="text"/></td> <td style="width:50px;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> </tr> </table>		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	x	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>						
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>														
Potential	<input type="text"/>	x	<input type="text"/>														
<b>&gt;&gt; Programmatic Matrix</b>																	
	Major	Moderate	Minor														
	<input type="text"/>	<input type="text"/>	<input type="text"/>														
			<b>Percent</b> <input type="text" value="0%"/>														
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.																
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>															
			<input type="text" value="\$1,000"/>														
<b>Violation Events</b>																	
	<b>Number of Violation Events</b> <input type="text" value="5"/>	<input type="text" value="398"/>	<b>Number of violation days</b>														
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>		<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>
daily	<input type="text"/>																
weekly	<input type="text"/>																
monthly	<input type="text"/>																
quarterly	x																
semiannual	<input type="text"/>																
annual	<input type="text"/>																
single event	<input type="text"/>																
	Five quarterly events are recommended for the four quarters in 2008 and the first quarter of 2009.																
<b>Good Faith Efforts to Comply</b>																	
	<b>0.0% Reduction</b>		<input type="text" value="\$0"/>														
	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>															
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>															
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>															
<b>N/A</b>	x	<small>(mark with x)</small>															
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																
	<b>Violation Subtotal</b>	<input type="text" value="\$5,000"/>															
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>															
<b>Estimated EB Amount</b>	<input type="text" value="\$548"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$6,093"/>														
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$6,093"/>														

## Economic Benefit Worksheet

**Respondent** Cal-Maine Foods, Inc.  
**Case ID No.** 37677  
**Reg. Ent. Reference No.** RN103886719  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$500	31-Mar-2008	31-Mar-2009	1.92	\$48	\$500	\$548

Notes for AVOIDED costs

Estimated cost to conduct periodic inspections at a frequency of at least once per quarter (\$100 per quarter). Date required is the date the inspection was due for the first quarter of 2008. Final date is the date the inspection was due the first quarter of 2009.

Approx. Cost of Compliance

\$500

**TOTAL**

\$548

<b>Screening Date</b> 18-May-2009	<b>Docket No.</b> 2009-0805-WQ-E	<b>PCW</b>														
<b>Respondent</b> Cal-Maine Foods, Inc.		<small>Policy Revision 2 (September 2002)</small>														
<b>Case ID No.</b> 37677		<small>PCW Revision October 30, 2009</small>														
<b>Reg. Ent. Reference No.</b> RN103886719																
<b>Media [Statute]</b> Water Quality																
<b>Enf. Coordinator</b> Cheryl Thompson																
<b>Violation Number</b> <input type="text" value="3"/>																
<b>Rule Cite(s)</b>	TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 5. f. and 30 Tex. Admin. Code § 305.125(1)															
<b>Violation Description</b>	Failed to establish an employee training program and conduct employee training at least once per year. Specifically, the Respondent did not conduct employee training in 2007 and 2008.															
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
	<b>Harm</b>															
	Major      Moderate      Minor															
<b>OR</b>	<b>Release</b>															
	Actual	<input type="text"/>														
	Potential	<input type="text" value="x"/>														
		<b>Percent</b> <input type="text" value="10%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																
	Falsification      Major      Moderate      Minor															
	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>														
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.															
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>														
		<input type="text" value="\$1,000"/>														
<b>Violation Events</b>																
<b>Number of Violation Events</b>	<input type="text" value="2"/>	<input type="text" value="730"/> <b>Number of violation days</b>														
	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text" value="x"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text" value="x"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,000"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text" value="x"/>															
single event	<input type="text"/>															
<small>mark only one with an x</small>																
	Two annual events are recommended.															
<b>Good Faith Efforts to Comply</b>																
	<b>0.0% Reduction</b>	<input type="text" value="\$0"/>														
	<small>Before NOV      NOV to EOPRP/Settlement Offer</small>															
<b>Extraordinary</b>	<input type="text"/>															
<b>Ordinary</b>	<input type="text"/>															
<b>N/A</b>	<input type="text" value="x"/> (mark with x)															
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.															
	<b>Violation Subtotal</b>	<input type="text" value="\$2,000"/>														
<b>Economic Benefit (EB) for this violation</b>																
<b>Estimated EB Amount</b>	<input type="text" value="\$456"/>	<b>Statutory Limit Test</b>														
		<b>Violation Final Penalty Total</b> <input type="text" value="\$2,437"/>														
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,437"/>														

## Economic Benefit Worksheet

**Respondent** Cal-Maine Foods, Inc.  
**Case ID No.** 37677  
**Reg. Ent. Reference No.** RN103886719  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$200	15-Apr-2008	31-Jan-2010	1.80	\$18	n/a	\$18
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to establish an employee training program. Date required is the date the violation was first documented. Final date is the projected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$400	31-Dec-2007	31-Dec-2008	1.92	\$38	\$400	\$438

Notes for AVOIDED costs

Estimated cost to establish an employee training program (\$200 per year).

Approx. Cost of Compliance

\$600

TOTAL

\$456

<b>Screening Date</b> 18-May-2009	<b>Docket No.</b> 2009-0805-WQ-E	<b>PCW</b>														
<b>Respondent</b> Cal-Maine Foods, Inc.		<small>Policy Revision 2 (September 2002)</small>														
<b>Case ID No.</b> 37677		<small>PCW Revision October 30, 2009</small>														
<b>Reg. Ent. Reference No.</b> RN103886719																
<b>Media [Statute]</b> Water Quality																
<b>Enf. Coordinator</b> Cheryl Thompson																
<b>Violation Number</b> 4																
<b>Rule Cite(s)</b>	TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 7. and 30 Tex. Admin. Code § 305.125(1)															
<b>Violation Description</b>	Failed to conduct annual comprehensive site compliance evaluations before December 31st of each year.															
	<b>Base Penalty</b>	\$10,000														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
	<b>Harm</b>															
	Major      Moderate      Minor															
<b>OR</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td style="text-align: center;">X</td> <td></td> </tr> </table>	Release	Major	Moderate	Minor	Actual				Potential		X		<b>Percent</b> 10%		
Release	Major	Moderate	Minor													
Actual																
Potential		X														
<b>&gt;&gt;Programmatic Matrix</b>																
	Falsification      Major      Moderate      Minor															
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>	Falsification	Major	Moderate	Minor					<b>Percent</b> 0%						
Falsification	Major	Moderate	Minor													
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.															
	<b>Adjustment</b>	\$9,000														
		\$1,000														
<b>Violation Events</b>																
	<b>Number of Violation Events</b> 1	<b>Number of violation days</b> 365														
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td></td></tr> <tr><td style="text-align: center;">weekly</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td></td></tr> <tr><td style="text-align: center;">quarterly</td><td></td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;">X</td></tr> <tr><td style="text-align: center;">single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual	X	single event		<b>Violation Base Penalty</b> \$1,000
daily																
weekly																
monthly																
quarterly																
semiannual																
annual	X															
single event																
	One annual event is recommended.															
<b>Good Faith Efforts to Comply</b>																
	0.0% Reduction	\$0														
	Before NOV      NOV to EDRP/Sellment Offer															
Extraordinary																
Ordinary																
N/A	X	(mark with x)														
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.															
	<b>Violation Subtotal</b>	\$1,000														
<b>Economic Benefit (EB) for this violation</b>																
	<b>Estimated EB Amount</b>	\$532														
<b>Statutory Limit Test</b>																
	<b>Violation Final Penalty Total</b>	\$1,219														
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>															
		\$1,219														

## Economic Benefit Worksheet

**Respondent** Cal-Maine Foods, Inc.  
**Case ID No.** 37677  
**Reg. Ent. Reference No.** RN103886719  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$500	31-Dec-2008	18-May-2009	1.30	\$32	\$500	\$532

Notes for AVOIDED costs

Estimated cost to conduct annual site evaluations. The date required is the date the annual site evaluation was due. Final date is the date of screening.

Approx. Cost of Compliance

\$500

**TOTAL**

\$532

## Compliance History Report

Customer/Respondent/Owner-Operator:	CN600800973	Cal-Maine Foods, Inc.	Classification: AVERAGE	Rating: 3.55
Regulated Entity:	RN103886719	CAL MAINE WAELDER FEEDMILL	Classification:	Site Rating:
ID Number(s):	STORMWATER		PERMIT	TXR050647
Location:	ON E END OF S RAILROAD ST IN WAELDER			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	July 02, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 18, 2004 to May 18, 2009			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Cheryl Thompson Phone: (817) 598-5886

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWNOPR  
Cal-Maine Foods, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR  
Cal-Maine Partnership, Ltd.
5. When did the change(s) in owner or operator occur? 6/1/2007
6. Rating date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of Investigations. (CCEDS Inv. Track. No.)

- 1 05/08/2008 (616700)
- 2 04/30/2009 (742307)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/06/2008 (616700)	CN600800973	
Self:	NO		Classification: Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Permit Provision:	III.A.3. PERMIT		
Description:	Failure to conduct the investigation of non-storm water discharges after the MSGP was re-issued on August 14, 2006.		
Self:	NO		Classification: Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Permit Provision:	III.A.5.f. PERMIT		
Description:	Failure to establish an employee training program.		
Self:	NO		Classification: Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Permit Provision:	III.A.5.g. PERMIT		
Description:	Failure to conduct periodic inspections.		
Self:	NO		Classification: Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Permit Provision:	III.A.7. PERMIT		
Description:	Failure to conduct annual comprehensive site compliance evaluations.		

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

- Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CAL-MAINE FOODS, INC.  
RN103886719

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0805-WQ-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cal-Maine Foods, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a feed mill located on the east side of south Railroad Street in Waelder, Gonzales County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 5, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Nine Hundred Sixty-Eight Dollars (\$10,968) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Seven Hundred Seventy-Five Dollars

(\$8,775) of the administrative penalty and Two Thousand One Hundred Ninety-Three Dollars (\$2,193) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to conduct a survey of potential non-storm water sources within 180 days of filing the Notice of Intent ("NOI"), in violation of Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050647 Part III Permit Requirements and Conditions Section A. 3. and 30 TEX. ADMIN. CODE § 305.125(1), as documented during a record review conducted on April 10, 2009. Specifically, the NOI for the permit renewal was submitted October 31, 2006, but no survey was conducted.
2. Failed to conduct periodic inspections, in violation of TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 5.g. and 30 TEX. ADMIN. CODE § 305.125(1), as documented during a record review conducted on April 10, 2009. Specifically, no inspections were conducted to evaluate the effectiveness of good housekeeping measures, spill prevention and response and other requirements of the permit on a quarterly basis for the four quarters in 2008 and the first quarter of 2009.
3. Failed to establish an employee training program and conduct employee training at least once per year, in violation of TPDES MSGP Permit No. TXR050647 Part III Permit Requirements and Conditions Section A. 5. f. and 30 TEX. ADMIN. CODE § 305.125(1), as documented during a record review conducted on April 10, 2009. Specifically, the Respondent did not conduct employee training in 2007 and 2008.

4. Failed to conduct annual comprehensive site compliance evaluations, in violation of TPDES MSGP Permit No. TXR05O647 Part III Permit Requirements and Conditions Section A. 7. and 30 TEX. ADMIN. CODE § 305.125(1), as documented during a record review conducted on April 10, 2009.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Cal-Maine Foods, Inc., Docket No. 2009-0805-WQ-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Conduct and record the survey of non-storm water discharge sources, in accordance with TPDES Permit MSGP Permit No. TXR05O647;
    - ii. Establish an employee training program and employee education for employees who are responsible for implementing and maintaining activities identified in the SWP3, in accordance with TPDES Permit MSGP Permit No. TXR05O647; and
    - iii. Begin conducting and recording the annual quarterly inspections to determine the effectiveness of the SWP3, in accordance with TPDES Permit MSGP Permit No. TXR05O647.
  - b. Within 60 days after the effective date of this Agreed Order, conduct annual comprehensive site compliance evaluation, in accordance with TPDES Permit MSGP Permit No. TXR05O647.
  - c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
  
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Erdlie  
For the Executive Director

10/3/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joe Wyatt VP  
Signature

8/12/09  
Date

JOE WYATT, VICE PREISDENT  
Name (Printed or typed)  
Authorized Representative of  
Cal-Maine Foods, Inc.

VP  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.