

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 5

1115 State Route 86, PO Box 296, Ray Brook, NY 12977-0296

P: (518) 897-1234 | F: (518) 897-1394

www.dec.ny.gov

June 18, 2019

Mr. Peter Lanahan
Lake Clear Association
PO Box 157
Lake Clear, NY 12945

**Re: Response to Comments
Childstock Farms Water Withdrawal
DEC No. 5-1646-00276/00002
Harrietstown (T), Franklin Co.**

Dear Mr. Lanahan:

Thank you for providing comments on the above application for the issuance of the Water Withdrawal (Non-Public) Permit for Childstock Farms Inc.

The Department has prepared the following response to your comments:

- 1. Comment 1:** *General Concerns: The hypothetical irrigation schedules presented with the permit application indicate that proposed water withdrawals from the Lake Clear Outlet are unlikely to produce noticeable changes to normal water levels in the Lake and the Outlet. The Association endorses the conclusions presented by these schedules. A primary goal of the permit should be to prevent noticeable effects on otherwise normal water levels.*

Water levels in Lake Clear may be controlled to a large extent by a small dam located near Forest Home Road, which is managed by the State Department of Environmental Conservation. The State should monitor water levels in the Lake over the life of the permit and, if necessary, make efforts to prevent noticeable fluctuations by active management of the dam. Provisions in the permit should allow the State to revise the permitted water withdrawals at certain intervals of time that are set forth in the permit, should that be necessary to maintain Lake levels near historic norms.

The Department will not be monitoring the level of water at the dam. However, the Department reserves the right exercise all available authority to modify, suspend, or revoke the applicant's permit on any of the following grounds, as listed under General Condition #4:

- a. Materially false or inaccurate statements in the permit application or supporting papers;
- b. Failure by the permittee to comply with any terms or conditions of the permit;
- c. Exceeding the scope of the project as described in the permit application;
- d. Newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;



Department of
Environmental
Conservation

- e. Noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.
2. **Comment 2:** *Groundwater: Anecdotal evidence indicates that Lake Clear may be largely fed by groundwater. Studies by the Adirondack Watershed Institute demonstrate contamination of the groundwater and the Lake by road salt.*

The Association recommends that, as part of its permitting process, the State should use existing data to assess whether permitted water withdrawals would be likely to cause significant increases in groundwater flows to the Lake with the potential for significantly increased adverse effects.

The data provided in support of the application and the conclusions and expectations for the permitted withdrawal, show no significant changes in the levels in Lake Clear. Should the environmental conditions change the Department has the authority to modify the permit.

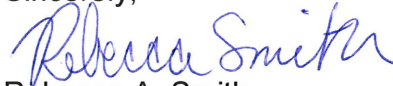
3. **Comment 3:** *Related concerns: The Association recommends that accepted "best practice" measures be employed to prevent intrusion of fertilizers or pesticides to the Lake Clear Outlet and Upper Saranac Lake.*

While the Department appreciates your comment, pollution and prevention control measures are not covered by this permit.

After evaluation of the one comment letter received during the public comment period, the Department has determined not to hold an adjudicatory hearing or a legislative hearing because the comments did not raise substantive and/or significant issues relating to the application which would result in denial of the permit application or the imposition of significant conditions thereon. DEC staff has concluded that the proposal meets all of the permit issuance standards and intends to issue the permit immediately. The permit will be issued with an expiration date of June 17, 2029. The permit (attached) contains conditions that further protect the resources.

Thank you for your comments on this project. If you have any further questions, please call me at (518) 897-1234.

Sincerely,



Rebecca A. Smith
Environmental Analyst 1

RAS
Enclosure

ec: Erik Schmitt, Water Engineer
Tamara Venne, Division of Water
Rob Streeter, Regional Water Manager
Jon Fieroh, Fisheries



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
CHILDSTOCK FARMS INC
156 CHILDS RD

MALONE, NY 12953-9626
(518) 569-8448

Facility:
CHILDSTOCK FARMS
S OF RTE 30 ADJACENT TO LAKE CLEAR
OUTLET
LAKE CLEAR, NY 12945

Facility Location: in HARRIETSTOWN in FRANKLIN COUNTY
Facility Principal Reference Point: NYTM-E: 558.713 NYTM-N: 4911.651
Latitude: 44°21'20.7" Longitude: 74°15'47.8"

Project Location: Parcel N of Lake Clear Outlet
Authorized Activity: Withdrawal of up to 650,000 gallons per day from Lake Clear Outlet for use by Childstock Farms, Inc. The instantaneous withdrawal rate shall not exceed 450 gallons per minute. The water will be used for irrigation purposes.

Permit Authorizations

Water Withdrawal Non-public - Under Article 15, Title 15
Permit ID 5-1646-00276/00002 (WWA No. 12,474)
New Permit Effective Date: 6/18/2019 Expiration Date: 6/17/2029

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: ERIN L BURNS, Deputy Regional Permit Administrator
Address: NYSDEC Region 5 Headquarters
1115 NYS ROUTE 86
PO BOX 296
RAY BROOK, NY 12977 -0296

Authorized Signature: Erin L. Burns Date 6/18/19



Permit Components

WATER WITHDRAWAL NON-PUBLIC PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

WATER WITHDRAWAL NON-PUBLIC PERMIT CONDITIONS

1. Source Approval Table

This table summarizes all system source approvals				
Well Field or Source of Water Supply	Source - Status	Past WWA Number	Individual Permitted Source Yield (gpm)	Maximum Permitted Well Field Yield or Supply of Water (gpd)
Lake Clear Outlet	Active	NA	450	650,000
Total Approved				650,000 gpd

2. Approval of Completed Works from NYS P.E. Any new works constructed or modified pursuant to this water withdrawal permit shall be constructed under the general supervision of a person licensed to practice engineering in this state (professional engineer). Upon completion of construction and pre-operational testing, such works may not commence final operation until the professional engineer first certifies in writing to the Department that the works have been constructed in accordance with the issued permit.

3. Transfer of Ownership of Water Withdrawal Systems Unless otherwise specified in this permit, a new water withdrawal permit application is required for the acquisition or condemnation of the approved water withdrawal system.

4. Meter All Sources The permittee must install and maintain meters or other appropriate measuring devices on all sources of supply used in the system. Source master meters or measuring devices are to be read, and records kept of those readings, on at least a weekly basis. The permittee must maintain records of water withdrawn and consumptive use for each calendar year.

5. Source Meter Calibration All source meters or measuring devices shall be calibrated for accuracy at least once each year.

6. Permittee Must Maintain Records The permittee must retain records of production and consumption, reports of audit results, and summaries of leaks detected and repaired for at least ten years. The permittee must provide copies of such of these records, reports, and summaries as might be requested in writing by the Department within one month of receiving such a request.



7. Water Conservation Methods The permittee has proposed the following Water Conservation methods to reduce water use. The permittee must notify this office in writing if any of these methods will no longer be used along with a narrative of why the method is being stopped and a description of replacement methods:

- Periodic (weekly or daily as appropriate) measurement of soil moisture to determine the actual duration of required irrigation,
- Monitoring of natural rainfall during the irrigation period,
- Monitoring of pump output rate (in gpm) and recording the daily pumped quantity,
- Monitoring of the actual amounts being applied using portable rain gauges,
- Irrigating at night (whenever possible) to reduce evaporation losses,
- Visually monitoring of the crops to determine actual plant requirements, and
- Using efficient (low pressure) irrigation equipment with minimal height above the ground to minimize evaporation and percolation into the ground below the plant root zone.

8. Leak Detection and Repair The permittee must develop and implement a leak detection and repair program using visual inspection of above ground piping and fittings and sonic detection equipment, meter-to-meter readings reconciliation or other methods acceptable to the Department for the inspection of the facility's underground piping in a systematic fashion. Leaking pipes and fittings shall be repaired in a timely manner.

9. Annual Water Withdrawal Reports The permittee must submit a Water Withdrawal Reporting Form to the Department's Division of Water, Albany, NY by March 31st of each year. The form is available on the Department's website and includes information regarding approved sources of water supply, source capacities, average and maximum day water use data and water conservation and efficiencies employed during the past calendar year.

10. Permit Expiration and Renewal Any permittee who intends to continue to operate a water withdrawal system beyond the period of time covered in the applicable water withdrawal permit must apply for a renewal of the permit at least 30 days prior to its expiration.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.



2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 5 Headquarters
1115 NYS ROUTE 86
PO BOX 296
RAY BROOK, NY 12977 -0296

4. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

5. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS
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Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in



compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

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