

Fact Sheet for State Waste Discharge Permit ST0045505

Active Berry Packers LLC

October 18, 2011

Purpose of this fact sheet

This fact sheet explains and documents the decisions the Department of Ecology (Ecology) made in drafting the proposed State Waste Discharge permit for Active Berry Packers LLC that will allow discharge of wastewater to the City of Lynden WWTP.

State law requires any commercial or industrial facility to obtain a permit before discharging waste or chemicals to municipal sanitary sewer collection and treatment systems.

Ecology makes the draft permit and fact sheet available for public review and comment at least thirty (30) days before it issues the final permit to the facility operator. Copies of the fact sheet and draft permit for Active Berry Packers, State Waste Discharge permit ST0045505 are available for public review and comment from August 9, 2011 until the close of business September 16, 2011. For more details on preparing and filing comments about these documents, please see *Appendix A – Public Involvement Information*.

Active Berry Packers reviewed the draft permit and fact sheet for factual accuracy. Ecology corrected any errors or omissions about the facility's location, history, product type, production rate, or discharges prior to publishing this draft fact sheet for public notice.

After the public comment period closes, Ecology will summarize substantive comments and our responses to them. Ecology will include our summary and responses to comments to this fact sheet as *Appendix D – Response to Comments*, and publish it when we issue the final State Waste Discharge permit. Ecology will not revise the rest of the fact sheet, but the full document including all appendices will become part of the legal history contained in the facility's permit file.

Summary

Active Berry Packers proposes to discharge pretreated process wastewater to City of Lynden Wastewater Treatment Plant. Ecology issued previous permits for berry processing operations at this same location but to previous operators.

Effluent limits for flow and pH are included in the proposed permit which also requires Active Berry Packers to sample for the conventional pollutants Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS).

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I. Introduction

The legislature defined Ecology's authority and obligations for the wastewater discharge permit program in the Water Pollution Control law, chapter 90.48 RCW (Revised Code of Washington).

Ecology adopted rules describing how it exercises its authority:

- State waste discharge program (chapter 173-216 WAC)
- Submission of plans and reports for construction of wastewater facilities (chapter 173-240 WAC)

These rules require any industrial facility owner/operator to obtain a State Waste Discharge permit before discharging wastewater to state waters. This rule includes commercial or industrial discharges to sewerage systems operated by municipalities or public entities which discharge into public waters of the state. They also help define the basis for limits on each discharge and for other performance requirements imposed by the permit.

Under the State Waste Discharge permit program and in response to a complete and accepted permit application, Ecology must prepare a draft permit and accompanying fact sheet, and make it available for public review before final issuance. Ecology must also publish an announcement (public notice) telling people where they can read the draft permit, and where to send their comments, during a period of thirty days. (See *Appendix A – Public Involvement Information* for more detail about the public notice and comment procedures). After the public comment period ends, Ecology may make changes to the draft State Waste Discharge permit in response to comment(s). Ecology will summarize the responses to comments and any changes to the permit in *Appendix D*.

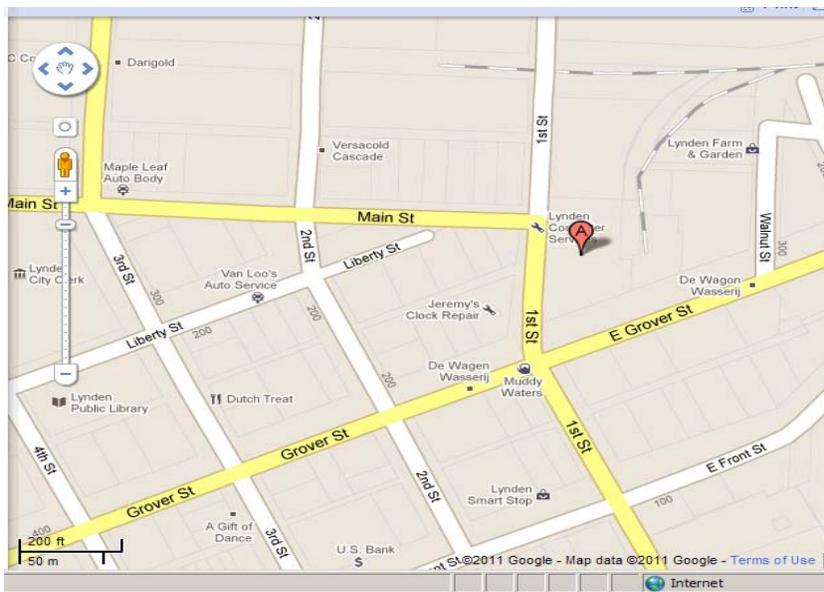
II. Background Information

Table 1. General Facility Information

Facility Information	
Applicant	Frank DeVries, Manager
Facility Name and Address	Active Berry Packers LLC 204 - 1 st Street Lynden, WA 98264
Contact at Facility	Frank DeVries
Responsible Official	Frank DeVries, Manager 210 Nooksack Ave, Suite 101 Lynden, WA 98264 Phone: 360-354-1134 FAX #: 360-354-0593
Industry Type	Berry freezing plant
Categorical Industry	40 CFR Part 407 Subpart F-Canned and Preserved Fruits Subcategory
Type of Treatment by Industry	Screening and pH adjustment
SIC Codes	2037
NAIC Codes	311411 Frozen Fruit Manufacturing
Treatment Plant Receiving Discharge	City of Lynden WWTP, WA0022578

Facility Information	
Discharge Location (NAD83/WGS84 reference datum)	Latitude: 48.946186 Longitude: -122.448297
Permit Status	
Application Submittal Date	June 13, 2011
Date of Ecology Acceptance of Application	June 13, 2011
Inspection Status	
Date of Last Inspection	None – new facility

Figure 1. Facility Location Map



A. Facility description

History

Versacold Cascade owns the facility and leases it to Active Berry Packers LLC (Active Berry). Various berry processors have operated in this building over the past 20 years. Carriage House Fruit Company operated under state waste discharge permit number ST7348 in the late 1990s. Versacold then leased the space to other berry operations and carried the permit for them. Active Berry has applied for its own pretreatment permit from Ecology.

This is a new discharge permit for Active Berry Packers LLC.

The facility will discharge wastewater to the City of Lynden WWTP, located at 800 S. 6th Street, in Lynden. The wastewater will enter the City of Lynden sanitary sewer system on 1st Street, adjacent to the Active Berry Packers screens.

Industrial process(s)

Active Berry operates a berry freezing plant for raspberries and blueberries. It freezes the fruit and then ships it to Versacold Cold Storage in Lynden. It operates during July and August and occasionally during the fall months to re-run products.

Active Berry has a daily inventory of raspberries and blueberries of up to 10,000 pounds. During daily operations, it uses about three to five gallons per minute of water. During cleanup, workers use about 3,000 to 5,000 gallons of water. Active Berry uses between 1,500 and 3,000 gallons water when defrosting the IQF (individually quick frozen) tunnel, which occurs once or twice a day.

Active Berry plans to operate 8-20 hours a day during the berry season. The facility will only operate 10-15 weeks per year due to the seasonality of berry production.

Wastewater pretreatment

All the wastewater and wash water is automatically pumped through a hydro-sieve to remove any solids before discharging into the WWTP system.

Solid wastes

Solid waste will include the culled berries and the screenings from the washwater. The proposed permit requires Active Berry to develop and submit a solid waste control plan.

B. Discharge location to the City of Lynden WWTP

The wastewater from Active Berry discharges to the City of Lynden WWTP system after screening through the hydro-sieve located in the parking lot. Active Berry employees will sample the discharge after screening and before any other non-process wastewater mixes with the flow. Active Berry will measure flow volumes with a city meter and will calculate and report flow based on the monthly city billings.

C. Wastewater characterization

Active Berry has not processed berries at this location. Ecology extrapolated the pollutant concentration from the previous berry processor at this location.

Table 2. Wastewater Characterization Estimation

Parameter	Units	Expected Value
Flow	gpd	10,000 – 15,000
BOD ₅	mg/L	300-400
TSS	mg/L	250-300

Parameter	Units	Minimum Value	Maximum Value
pH	Std units	6.0	10.0

D. State environmental policy act (SEPA) compliance

State law exempts reissuance or modification of any wastewater discharge permit from the SEPA process as long as the permit contains conditions which are no less stringent than federal and state rules and regulations (RCW 43.21C.0383). The exemption applies

only to existing discharges, not to new discharges. This is a new permit for an existing discharger. Active Berry has processed at this location under the Versacold permit. SEPA was not required for this operation.

III. Proposed Permit Limits

State regulations require that Ecology base limits in a State Waste Discharge permit on the:

- Technology and treatment methods available to treat specific pollutants (technology-based). Technology-based limits are set by the EPA and published as a regulation (40 CFR 400 - 471), or Ecology develops limits on a case-by-case basis (40 CFR 125.3, and RCW 90.48). Dischargers must treat wastewater using all known, available, reasonable methods of prevention, control, and treatment (AKART).
- Effects of the pollutants on the publicly owned treatment works (POTW). Wastewater must not interfere with the operation of the POTW. Ecology considers local limits in developing permit limits.
- Applicable requirements of other local, state and federal laws.

Ecology applies the most stringent of these limits to each parameter of concern and further describes the proposed limits below.

The limits in this permit reflect information received in the application and from supporting reports (engineering, hydrogeology, monitoring, etc.). Ecology evaluated the permit application and determined the limits needed to comply with the rules adopted by the state of Washington. Ecology does not develop effluent limits for all reported pollutants. Some pollutants are not treatable at the concentrations reported, are not controllable at the source, and are not listed in regulation.

Ecology does not usually develop permit limits for pollutants not reported in the permit application but may be present in the discharge. The permit does not authorize the discharge of the non-reported pollutants. During the five-year permit term, the facility's effluent discharge conditions may change from those conditions reported in the permit application. The facility must notify Ecology if significant changes occur in any constituent. Until Ecology modifies the permit to reflect additional discharge of pollutants, a permitted facility could be violating its permit.

A. Technology-based effluent limits

Waste discharge permits issued by Ecology specify conditions requiring all available and reasonable methods of prevention, control, and treatment (AKART) of discharges to waters of the state (RCW 90.48).

There are no federal categorical limits for this facility listed in 40 CFR Part 40.

The state waste discharge permit regulations include restrictions and prohibitions to protect sewerage systems. A facility may not discharge any wastewater having a pH less than 5.0 or greater than 11.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel unless the:

- System is specifically designed to accommodate such discharge.
- Discharge is authorized by a permit (WAC 173-216-060).

Federal regulations (40 CFR 403.5b) also prohibit the discharge of pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0, unless the collection and treatment system is designed to accommodate such discharges.

The following permit limits are necessary to satisfy the requirement for AKART:

Table 3. Technology-Based Effluent Limits

Effluent Limits		
Parameter	Daily Minimum	Daily Maximum
pH	6.0 standard units	10.0 standard units

B. Effluent limits based on local limits

Pollutant concentrations in the proposed discharge with technology-based controls in place are not expected to cause problems at the receiving POTW such as interference, pass-through or hazardous exposure conditions to POTW workers. Nor are they expected to result in unacceptable pollutant levels in the POTW's sludge/biosolids.

IV. Monitoring Requirements

Ecology requires monitoring, recording, and reporting (WAC 173-216-110) to verify that the treatment process functions correctly, and that the discharge complies with the permit's effluent limits.

A. Lab accreditation

Ecology requires that facilities must use a laboratory registered or accredited under the provisions of chapter 173-50 WAC, Accreditation of Environmental Laboratories, to prepare all monitoring data (with the exception of certain parameters).

B. Wastewater monitoring

Ecology details the proposed monitoring schedule under Special Condition S2. Specified monitoring frequencies take into account the quantity and variability of the discharge, the treatment method, past compliance, significance of pollutants, and cost of monitoring.

V. Other Permit Conditions

A. Reporting and recordkeeping

Ecology based Special Condition S3 on its authority to specify any appropriate reporting and recordkeeping requirements to prevent and control waste discharges [WAC 173-216-110 and CFR 403.12 (e),(g), and (h)].

B. Prohibited discharges

Ecology prohibits certain pollutants from being discharged to the POTW. These include substances which cause pass-through or interference, pollutants which may cause damage to the POTW or harm to the POTW workers (chapter 173-216 WAC) and the discharge of designated dangerous wastes not authorized by this permit (chapter 173-303 WAC).

C. Dilution prohibited

Ecology prohibits the facility from diluting its effluent as a partial or complete substitute for adequate treatment to achieve compliance with permit limits.

D. Solid waste control plan

Active Berry could cause pollution of the waters of the state through inappropriate disposal of solid waste or through the release of leachate from solid waste.

This proposed permit requires this facility to develop a solid waste control plan to prevent solid waste from causing pollution of waters of the state. Active Berry must submit the plan to Ecology for review (RCW 90.48.080) by December 1, 2011.

E. Spill plan

This facility stores a quantity of chemicals on-site that have the potential to cause water pollution and/or interference or pass through at the receiving POTW if accidentally released. Ecology can require a facility to develop best management plans to prevent this accidental release [Section 402(a)(1) of the Federal Water Pollution Control Act (FWPCA) and RCW 90.48.080].

The proposed permit requires this facility to develop and implement a plan for preventing the accidental release of pollutants to state waters and for minimizing damages if such a spill occurs.

F. Slug discharge plan

Ecology determined that Active Berry Packers has the potential for a batch discharge or a spill that could adversely affect the Lynden WWTP. Therefore the proposed permit requires a slug discharge control plan [(40 CFR 403.8 (f)(1) (iii)(B)(6) and (f) (2)(vi)] be developed and submitted to Ecology for review.

G. General conditions

Ecology bases the standardized general conditions on state law and regulations. General conditions are included in all state waste discharge permits issued by Ecology.

VI. Public Notification of Noncompliance

Ecology may annually publish a list of all industrial users in significant noncompliance with Pretreatment Standards or Requirements during any of the previous four quarters in a local newspaper. Accordingly, this permit special condition informs the Facility that noncompliance with this permit may result in publication of the noncompliance.

VII. Permit Issuance Procedures

A. Permit modifications

Ecology may modify this permit to impose or change the numerical limits, if necessary to comply with changes in the pretreatment requirements, conditions in local sewer ordinances, or based on new information from sources such as inspections and effluent monitoring. It may also modify this permit to comply with new or amended state or federal regulations.

B. Proposed permit issuance

This proposed permit meets all statutory requirements for authorizing a wastewater discharge, including those limits and conditions believed necessary to control toxics. Ecology proposes that the permit be issued for a term of five years.

VIII. References for Text and Appendices

Washington State Department of Ecology.

Laws and Regulations (<http://www.ecy.wa.gov/laws-rules/index.html>)

Permit and Wastewater Related Information

(<http://www.ecy.wa.gov/programs/wq/wastewater/index.html>)

November 2010. *Permit Writer's Manual*, Publication Number 92-109

(<http://www.ecy.wa.gov/biblio/92109.html>)

February 2007. *Focus Sheet on Solid Waste Control Plan, Developing a Solid Waste Control Plan for Industrial Wastewater Discharge Permittees*, Publication Number 07-10-024.

<http://www.ecy.wa.gov/pubs/0710024.pdf>

Appendix A – Public Involvement Information

Ecology proposes to issue a permit to Active Berry Packers LLC. The permit includes wastewater discharge limits and other conditions. This fact sheet describes the facility and Ecology's reasons for requiring permit conditions.

Ecology placed a Public Notice of Application and Draft permit on August 9 and August 16, 2011, in *The Bellingham Herald* to inform the public about the submitted application and to invite comment on proposed draft State Waste Discharge permit and fact sheet.

The notice:

- Told where copies of the draft permit and fact sheet were available for public evaluation (a local public library, the closest regional or field office, posted on our website).
- Offered to provide the documents in an alternate format to accommodate special needs.
- Urged people to submit their comments, in writing, before the end of the comment period
- Told how to request a public hearing of comments about the proposed state waste discharge permit.
- Explained the next step(s) in the permitting process.

Ecology has published a document entitled *Frequently Asked Questions about Effective Public Commenting*, which is available on our website at <http://www.ecy.wa.gov/biblio/0307023.html>.

You may obtain further information from Ecology by telephone, 425-649-7201, or by writing to the address listed below.

Water Quality Permit Coordinator
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

The primary author of this permit and fact sheet is Lori LeVander.

Appendix B – Your Right to Appeal

You have a right to appeal this permit to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of the final permit. The appeal process is governed by chapter 43.21B RCW and chapter 371-08 WAC. “Date of receipt” is defined in RCW 43.21B.001(2) (see glossary).

To appeal you must do the following within 30 days of the date of receipt of this permit:

- File your appeal and a copy of this permit with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this permit on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in chapter 43.21B RCW and chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501</p>	<p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

Appendix C – Glossary

AKART -- The acronym for “all known, available, and reasonable methods of prevention, control and treatment.” AKART is a technology-based approach to limiting pollutants from wastewater discharges, which requires an engineering judgment and an economic judgment. AKART must be applied to all wastes and contaminants prior to entry into waters of the state in accordance with RCW 90.48.010 and 520, WAC 173-200-030(2)(c)(ii), and WAC 173-216-110(1)(a).

Average monthly discharge limit -- The average of the measured values obtained over a calendar month's time.

Best management practices (BMPs) -- Schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may be further categorized as operational, source control, erosion and sediment control, and treatment BMPs.

BOD5 -- Determining the five-day Biochemical Oxygen Demand of an effluent is an indirect way of measuring the quantity of organic material present in an effluent that is utilized by bacteria. The BOD5 is used in modeling to measure the reduction of dissolved oxygen in receiving waters after effluent is discharged. Stress caused by reduced dissolved oxygen levels makes organisms less competitive and less able to sustain their species in the aquatic environment. Although BOD₅ is not a specific compound, it is defined as a conventional pollutant under the federal Clean Water Act.

Bypass -- The intentional diversion of waste streams from any portion of a treatment facility.

Categorical pretreatment standards -- National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties, which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories.

Chlorine -- A chemical used to disinfect wastewaters of pathogens harmful to human health. It is also extremely toxic to aquatic life.

Clean water act (CWA) -- The federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, 97-117; USC 1251 et seq.

Compliance inspection-without sampling -- A site visit for the purpose of determining the compliance of a facility with the terms and conditions of its permit or with applicable statutes and regulations.

Compliance inspection-with sampling -- A site visit for the purpose of determining the compliance of a facility with the terms and conditions of its permit or with applicable statutes and regulations. In addition it includes as a minimum, sampling and analysis for all parameters with limits in the permit to ascertain compliance with those limits; and, for municipal facilities, sampling of influent to ascertain compliance with the 85 percent removal requirement. Ecology may conduct additional sampling.

Composite sample -- A mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing discrete samples. May be "time-composite" (collected at constant time intervals) or "flow-proportional" (collected

either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increased while maintaining a constant time interval between the aliquots).

Construction activity -- Clearing, grading, excavation, and any other activity, which disturbs the surface of the land. Such activities may include road building; construction of residential houses, office buildings, or industrial buildings; and demolition activity.

Continuous monitoring -- Uninterrupted, unless otherwise noted in the permit.

Date of receipt -- This is defined in RCW 43.21B.001(2) as five business days after the date of mailing; or the date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, constitutes sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

Engineering report -- A document that thoroughly examines the engineering and administrative aspects of a particular domestic or industrial wastewater facility. The report must contain the appropriate information required in WAC 173-240-060 or 173-240-130.

Grab sample -- A single sample or measurement taken at a specific time or over as short a period of time as is feasible.

Industrial user -- A discharger of wastewater to the sanitary sewer that is not sanitary wastewater or is not equivalent to sanitary wastewater in character.

Industrial wastewater -- Water or liquid-carried waste from industrial or commercial processes, as distinct from domestic wastewater. These wastes may result from any process or activity of industry, manufacture, trade or business; from the development of any natural resource; or from animal operations such as feed lots, poultry houses, or dairies. The term includes contaminated storm water and, also, leachate from solid waste facilities.

Interference -- A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), sludge regulations appearing in 40 CFR Part 507, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Local limits -- Specific prohibitions or limits on pollutants or pollutant parameters developed by a POTW.

Maximum daily discharge limit -- The highest allowable daily discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. The daily discharge is calculated as the average measurement of the pollutant over the day.

National pollutant discharge elimination system (NPDES) -- The NPDES (Section 402 of the Clean Water Act) is the federal wastewater permitting system for discharges to navigable waters of the United States. Many states, including the state of Washington, have been delegated the authority to issue these permits. NPDES permits issued by Washington State permit writers are joint NPDES/State permits issued under both state and federal laws.

pH -- The pH of a liquid measures its acidity or alkalinity. It is the negative logarithm of the hydrogen ion concentration. A pH of 7 is defined as neutral and large variations above or below this value are considered harmful to most aquatic life.

Pass-through -- A discharge which exits the POTW 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 POTW's NPDES permit (including an increase in the magnitude or duration of a violation), or which is a cause of a violation of State water quality standards.

Potential significant industrial user (PSIU) -- A potential significant industrial user is defined as an Industrial User that does not meet the criteria for a Significant Industrial User, but which discharges wastewater meeting one or more of the following criteria:

- a. Exceeds 0.5 % of treatment plant design capacity criteria and discharges <25,000 gallons per day or;
- b. Is a member of a group of similar industrial users which, taken together, have the potential to cause pass through or interference at the POTW (e.g. facilities which develop photographic film or paper, and car washes).
Ecology may determine that a discharger initially classified as a potential significant industrial user should be managed as a significant industrial user.

Responsible corporate officer -- A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures (40 CFR 122.22).

Significant industrial user (SIU) --

- 1) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
- 2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blow-down wastewater); contributes a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority* on the basis that the industrial user has a

reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)].

Upon finding that the industrial user meeting the criteria in paragraph 2, above, has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority* may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug discharge -- Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge to the POTW. This may include any pollutant released at a flow rate that may cause interference or pass through with the POTW or in any way violate the permit conditions or the POTW's regulations and local limits.

Solid waste -- All putrescible and non-putrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

Soluble BOD₅ -- Determining the soluble fraction of Biochemical Oxygen Demand of an effluent is an indirect way of measuring the quantity of soluble organic material present in an effluent that is utilized by bacteria. Although the soluble BOD₅ test is not specifically described in Standard Methods, filtering the raw sample through at least a 1.2 um filter prior to running the standard BOD₅ test is sufficient to remove the particulate organic fraction.

State waters -- Lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Stormwater--That portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a storm water drainage system into a defined surface water body, or a constructed infiltration facility.

Technology-based effluent limit -- A permit limit based on the ability of a treatment method to reduce the pollutant.

Total suspended solids (TSS) -- Total suspended solids is the particulate material in an effluent. Large quantities of TSS discharged to a receiving water may result in solids accumulation. Apart from any toxic effects attributable to substances leached out by water, suspended solids may kill fish, shellfish, and other aquatic organisms by causing abrasive injuries and by clogging the gills and respiratory passages of various aquatic fauna. Indirectly, suspended solids can screen out light and can promote and maintain the development of noxious conditions through oxygen depletion.

Upset -- An exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limits because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.

Appendix D – Response to Comments

Ecology received comments on the draft permit from the City of Lynden, and ReSources, North Sound Baykeeper during the public comment period. While the responses below summarize the comments received from ReSources, this appendix includes a copy of their complete letter for reference.

Responses to these comments are as follows:

Response to Comment from the City of Lynden:

Comments noted. On page 8 under report submittal, Ecology changed the City of Lynden address to 300-4th Street, Lynden WA 98264; Attn: Waste/Wastewater Plant Superintendent.

In the Fact Sheet page 5, Ecology changed the WWTP address to read 800 S. 6th Street.

Comments from ReSources – North Sound Baykeeper:

1) *We believe regulations must be placed on the stormwater that issues from the site. Operations under SIC 2037 and NAISC 311411 require an Industrial Storm Water General Permit (ISGP) or a Conditional No Exposure (CNE) Certificate. The draft permit does not address these requirements. The department could incorporate the stormwater requirements into the NPDES permit.*

Response: The permit Ecology proposes to issue is a State Waste Discharge Permit, not an NPDES permit. A State Waste Discharge permit cannot authorize discharges to surface waters categorized as “Waters of the US,” as requested by this comment. An Ecology Stormwater Inspector will inspect the Active Berry site and determine if the facility requires coverage under the ISGP or qualifies for a CNE. The facility will be required to develop a stormwater pollution prevention plan if they meet requirements for coverage under an ISGP.

2) *We believe that it is important to limit the excess loading at the Lynden Wastewater Treatment Plant (LWWTP). We ask that limits be placed on the amount of BOD and TSS discharged to the plant and that BMPs be instituted to reduce loading to the LWWTP. We note that limits can be placed on berry processors which discharge to WWTPs (Milne Fruit Producers in Prosser, WA).*

Response: Active Berry and Milne do not operate comparable processes. Active Berry is a berry washing and repacking operation that generates an average flow of approximately 10,000 gpd. They operate between 8-20 hours a day, 10-15 weeks per year. The Milne Fruit facility in Prosser produces fruit puree and juices and is covered under an NPDES permit. They have a daily average flow of 134,000 gpd, and operate 24 hours a day, 51 weeks a year. Additionally, the receiving wastewater treatment plants are very different. Ecology does not expect the discharge from Active Berry to the LWWTP to have much of an impact to the treatment plant based on the short duration of discharge during the dry season, and the relatively low flows.

The final permit includes a Best Management Practices section in S4.C.

- 3) *We note that the pH limits vary between a minimum of 6.0 and a maximum of pH 10.0. Especially during times of high water output from this site, pH levels near both of these thresholds may place undue pressure on the LWWTP to hold and further treat the water before it enters the standard treatment cycle. We ask that Ecology reduce the pH range in the permit so it is closer to the effluent pH range for the LWWTP (6.5 – 8.5). We also request that the permit explicitly state which methods are used to adjust the pH of the wastewater.*

Response: The Active Berry permit limits the maximum discharge flow from the berry washwater to 15,000 gpd so there should never be a day of high water output from this facility, to the Lynden WWTP. A pH of 6.0 is within the typical range of pH for domestic wastewater and is the same as the lower limit placed on the LWWTP's discharge (actual pH range permitted in LWWTP is 6.0 to 9.0). The LWWTP can accommodate wastewater flowing into the plant at pH of 6.0 without additional storage or pretreatment.

The pH limits for this permit were derived through review of state and federal regulations, specific plant pretreatment requirements, and were put in place with the written approval from the City of Lynden. State regulations allow a maximum pH of 11.0 for industrial discharges to domestic wastewater treatment plants; federal regulations do not impose a maximum limit. Regulations allow more latitude for higher pH wastewater since domestic sewage is generally mildly acidic and most nuisance problems in collection systems (odors and pipe damage) increase when the sewage pH falls to 5.0 or less. Given the amount of flow Active Berry discharges, the wastewater will not adversely impact the LWWTP when pH is at the maximum limit.

Ecology does not specify treatment processes permittees must use. Ecology will provide relevant treatment process background information in the Fact Sheet when used at a permitted facility. If the permittee determines they need a system to adjust their wastewater pH in order to meet the permit limits, it is their responsibility to submit engineering reports and notify Ecology of the methods they will use.

- 4) *We would like assurance that Active Berry Packers has obtained all necessary permits for the volume of water usage from Lynden Water Treatment and release to LLWTP.*

Response: This permit only authorizes discharge of process wastewater to the LWWTP. Concerns related to water usage are beyond the scope of Ecology's authority and the State Waste Discharge Permit system. Please direct this comment to the City of Lynden.



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September 15, 2011

Subject: Comments on the NPDES Permit for Active Berry Packers, LLC

Dear Ms. Miller and Ms. LeVander:

The North Sound Baykeeper Team is a project of RE Sources. Our goal is to safeguard the waters and habitats in Whatcom and Skagit Counties. RE Sources has approximately 800 members, the majority of them living and recreating in Whatcom County. On their behalf, we submit these comments on the Active Berry Packers NPDES draft permit.

Active Berry Packers, located at 204 1st St., Lynden, WA 98264, lies within both the Fishtrap Creek and Kamm Creek watersheds. Both of these watersheds are listed under the current EPA approved Water Quality Assessment and 303(d) list as impaired water bodies. Both of these creeks flow into the Nooksack River, which is also an impaired system. The Water Quality Assessment indicates that portions downstream of these creeks and the Nooksack River are listed as Category 5 Waters for dissolved oxygen availability, among other parameters.

Low dissolved oxygen in these waters is problematic for salmon and trout. They need high levels of dissolved oxygen to survive (Carter 2005, Ruggerone 2000) The Nooksack Salmon Enhancement Association in Whatcom County has documented summer-runs of Steelhead Trout in the Nooksack River from June through October (NSEA, 2011). Additionally, these fish are listed as federally threatened under the Endangered Species Act.

To protect salmon in Fishtrap and Kamm Creeks, and the Nooksack River, we believe that regulations must be placed on the stormwater that issues from the site and that every effort must be made to limit the loading from Active Berry packers to the Lynden Wastewater Treatment Plant. Stormwater contaminated from berry handling processes and wastewater effluent

containing excess loads of BOD and TSS can lead to further decreases in dissolved oxygen in the creeks and river.

The operations of Active Berry Packers fall under the SIC and NAISC codes of 2037 and 311411 respectively. Facilities with these codes require an Industrial Storm Water General Permit (ISGP) or a Conditional No Exposure Certificate (CNE). The Active Berry Packers draft permit does not address these requirements.

We would like to make sure that Active Berry Packers applies for an ISGP from the Department of Ecology, or that the Department incorporates the ISGP requirements into the NPDES permit. Our understanding is that the latter method is preferred in order to consolidate monitoring and reporting requirements into one place.

Ensuring that Active Berry Packers follows all ISGP requirements and Best Management Practices for polluted runoff at this location will reduce the environmental impacts of its operations at this site and protect our water resources. **To achieve full compliance, we ask that a storm water pollution prevention plan be developed; stormwater be monitored for the standard parameters of pH, zinc, turbidity, copper, and oil & grease, as well as the additional parameters of BOD, nitrate/nitrite as N, and total phosphorus, specific to SIC 2037; and that all appropriate BMP's be implemented.**

In addition to the stormwater at the site, we believe that it is important to limit excess loading at the Lynden Wastewater Treatment Plant (LWWTP) so that it functions optimally and discharges minimal pollutants into the Nooksack River. Of concern is the loading of TSS and BOD and the allowed range of pH.

We note that there are no limits placed in the draft permit for BOD and TSS. Without limits, Active Berry Packers does not have any incentive to reduce loading to the LWWTP. **We ask that limits be placed on the amount of BOD and TSS discharged to the plant and that BMP's be instituted to reduce loading to the LWWTP.** We note that limits can be placed on berry processors which discharge to wastewater treatment plants. This was done for Milne Fruit Producers in the City of Prosser, WA. The exact limit for BOD and TSS will need to be determined in consideration of the average daily amount of berries processed and the institution of BMP's to limit loading. Perhaps the berry debris could even be used as compost material.

We are concerned about the pre-treatment of effluent that leaves the site of Active Berry Packers. We understand that suspended solids must be filtered out, and that pH will be adjusted before the effluent is sent to the wastewater treatment plant. However, we note that the pH limits vary between a minimum of pH 6.0 and a maximum of pH 10.0. Especially during times of high water output from this site, pH levels near both of these thresholds may place undue pressure on the LWWTP to hold and further treat the water before it enters the standard treatment cycle. The acceptable range of pH for the LWWTP effluent is between pH 6.5 to pH 8.5. **We ask that the Department of Ecology reduce the pH range of the effluent for Active Berry Packers so it is closer to the effluent pH range for LWWTP. We also request that the permit explicitly state which methods are used to adjust the pH of the wastewater.**

Lastly, we also would like assurance that Active Berry Packers has obtained all necessary permits for the volume of water usage from Lynden Water Treatment and release to LWWTP.

Thank you for your efforts to protect the waters of the state. We look forward to reviewing the final permit for Active Berry Packers. Please do not hesitate to call should you have any questions regarding this comment letter.

Sincerely,

Wendy Steffensen, Lead Scientist
North Sound Baykeeper Team, RE Sources

With assistance from interns: Keturah Witter, Naomi Gibson, and Dylan Foggitt.

References:

Carter, K. 2005. The Effects of Dissolved Oxygen on Steelhead Trout, Coho Salmon, and Chinook Salmon Biology and Function by Life Stage. California Regional Water Quality Control Board, North Coast Region

Ruggerone, G. T. 2000. Differential survival of juvenile sockeye and coho salmon exposed to low dissolved oxygen during winter *Journal of Fish Biology*. 56: 1013-1016

NSEA, Nooksack Salmon Enhancement webpage; <http://www.n-sea.org/salmon-info-1/steelhead-trout>, Accessed September 15, 2011