



**SRAP**  
Socially Responsible  
Agriculture Project

June 22, 2023

*Via email [george.mwangi@delaware.gov](mailto:george.mwangi@delaware.gov)*

DNREC

Surface Water Discharges Section of the Division of Water

George Mwangi, P.E.

Commercial and Government Services Section

89 Kings Highway

Dover, DE 19901

Re: City of Seaford, Delaware Wastewater Treatment Facility  
National Pollutant Discharge System (NPDES) Permit No. DE0020265  
(State Number WPCC 3161G/74) Application for Renewal

Public Comment and Request for a Public Hearing

To DNREC:

The Socially Responsible Agriculture Project (SRAP) submits public comments to DNREC on the City of Seaford's application for renewal of Seaford's wastewater treatment facility permit, and requests a public hearing on this proposed draft permit.

In summary, Seaford submitted its application on March 13, 2020, and DNREC wrote to Seaford on April 22, 2020, informing Seaford that the wastewater permit renewal application was administratively complete. Now, three years later, DNREC has issued the draft wastewater permit for public notice and comment. A lot has happened in the intervening years that must be accounted for in the draft permit, and we have suggestions for how DNREC can improve the draft permit to better protect water quality and the public interest.

**DNREC should require more thorough and frequent assessment and monitoring of the increased inputs to Seaford's wastewater system.**

Bridgeville, Laurel, and Greenwood's sanitary sewer wastes are now diverted to Seaford, under the Sussex County Unified Sewer District System. Seaford has also been accepting wastewater from other industrial users (e.g., barley malt wastewater, RAPA Scrapple, Cold Cannon Storage, and additional industrial users in Bridgeville). In addition, BioEnergy DevCo's (BDC) permit applications to DNREC describe BDC as delivering, via truck, somewhere between 60,000 and 72,000 gallons per day of wastewater from its composting and biogas facility to Seaford's wastewater treatment plant for disposal.<sup>1</sup> Seaford's 2015-2020 NPDES permit (as modified) identified a permitted system with a hydraulic design discharge rate of 2.0 million gallons per day and based the effluent limitations for Seaford's single outfall to the Nanticoke River on that rate. With at least these significant additional inputs into Seaford's wastewater system, we question whether Seaford - and DNREC - have properly assessed Seaford's system capacity, discharge rates, and effluent limitations, and whether DNREC should require more frequent flow monitoring to ensure the 2.0 mgd estimates and effluent limitations are, and remain, correct over the life of the next permit cycle.

While BDC's expected estimated inputs to Seaford's wastewater system may only be approximately 3% - 3.6% of Seaford's 2.0 mgd capacity, the unique industrial process BDC proposes to use to generate wastewater, the pollutants in BDC's wastewater, and potentially other waste BDC expects to transfer to Seaford, should all be considered as part of DNREC's wastewater permit to Seaford. In the BDC permit process, DNREC recognized that BDC's proposal would have impacts on wastewater. See SRAP et al Comments to DNREC regarding BDC's permit applications p. 14 ("BDC Application Comments"). Here is another opportunity for DNREC to ensure that those impacts are mitigated so they do not degrade water quality. This step as part of the Seaford permit is important, because BDC has not identified wastewater pollutants it will generate. See, e.g., BDC Application Comments, p. 14, 38-40 (discussing how BDC's two wastewater permits are incomplete and improperly prepared, are a cut and paste of each other, lack any specificity as to the pollutants or processes).

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<sup>1</sup> See BDC Draft Wastewater Pretreatment Permit at I.3.B; Wastewater Permit: Operations Plan at 22 of 48. Special Condition 8 of the Draft Wastewater Pretreatment Permit requires that BDC "submit a letter from the wastewater treatment facility that will be receiving the treated effluent" before construction, but this is a critical feature of the Project that must be included in these applications noticed for public review and comment and cannot be done behind closed doors. Nor can this condition excuse BDC's failure to assess impacts in the EA, especially when the "wastewater makeup" apparently is not yet known. See RRF: Hydrogeological Assessment at 17 of 351 (hereinafter Hydrogeological Assessment) ("wastewater makeup is being finalized"). See also DNREC's Hydrogeological Assessment at 17 of 351 ("total discharge to Sussex County is estimated to be 72,000 gallons per day").

**DNREC should take additional steps to minimize impacts and avoid water quality degradation.**

In the Seaford Draft Permit, some steps DNREC can take to minimize impacts and avoid water quality degradation and to protect public resources would be to require:

The Draft Permit should set additional limits on influence. Treating wastewater to remove pollutants is an expensive and resource-intensive undertaking. In order to minimize the costs to the City of Seaford and the public of reaching effluent limits, DNREC can, and should, (1) establish additional limits on the influence received from certain users and (2) require Seaford to charge a surcharge for industrial users. Certain users, such as industrial interests, have the ability and resources to filter and remove pollutants from the wastewater they are conveying to Seaford; they also have the ability to pay (but Seaford does not require it). The efforts and costs of this removal should be borne by industrial users, not a public utility such as Seaford.

This point is all the more important because of the impact some industrial users have and are expected to have on environmental justice communities in the Seaford area, such as the BioEnergy Development Co. (BDC) biogas and compost facility in Blades. See, e.g., SRAP et al.'s Title VI Complaint to EPA (Dec. 22, 2022). The community should not be forced to pay twice - with pollution exposure and with their wallets. Without stronger influent parameters and goals, the draft permit does exactly that.

For example, currently the Draft Permit sets a daily average and daily maximum for TSS effluent (capped limits carried over from the 2015-2020 permit) and requires Seaford to demonstrate 92.5% reduction in raw waste TSS. Since late 2020, it appears that Seaford's TSS levels have been regularly approaching and exceeding the daily average limit, so this is a welcome addition to the permit. See Fact Sheet at 14. The influent limit though, is blank for the daily average and "--" for the daily maximum load. See Draft Permit at 4. DNREC should set a clear TSS influent limitation in Seaford's permit so that private industrial entities, such as BDC who already have their own pre-treatment system in their own draft permit documents, will be required to convey wastewater and hauled-in wastes that enable Seaford to readily, economically, and efficiently, meet influent and effluent standards. Requiring strong influent standards, and shifting more pretreatment responsibility to BDC is even more important in the case of BDC, which expects to be a receptacle for poultry waste from three different states. Seaford, and Seaford residents, should not bear the costs and burden of BDC's wastewater treatment and disposal for waste that is not even generated within Seaford.

Other pollutants also demonstrate consistent levels at, or above the criteria set by the 2015-2020 Permit. See, e.g., Fact Sheet at 20 (dissolved oxygen). Other pollutants demonstrate some difficulty that Seaford is having in managing these pollutants as the daily max loads seem to be

increasing more regularly (e.g., BOD5, see Fact Sheet at 12 showing regular spikes of the daily max since late 2020; Enterococcus, see Fact Sheet at 13). Again, setting influent limits for users that are readily able to control their wastewater enables Seaford to allocate public resources towards all of its obligations under the state and NPDES permit (e.g., operation, maintenance, funding, management, staffing, training, laboratory processes and controls). The POTW reports focus on Seaford's history of unsuccessfully attempting to get copper and zinc under control, but other pollutants are also parameters of concern to SRAP because of these pollutants' connections to industrial livestock operations. Other facilities may also be contributing to Seaford's system and/or the Nanticoke River water quality, such as Perdue Agricycle, are of concern to SRAP. SRAP also remains concerned with nutrient levels for influent and effluent under the permit in light of potential influent from BDC, and Delaware's TMDL for nutrients for the Nanticoke River. 7 Del. Admin. Code 7406.

As part of Seaford's POTW program, Seaford should set influent goals for all waste streams. Sludge, for example, does not appear to have goals for BOD-5 day, Nitrogen ammonia, Total Nitrogen, or Phosphorus. See March 8, 2022 Pretreatment Report at 22. We request that DNREC require Seaford to set these parameters.

More stringent influent limits is a necessary step to remove ambiguity for the public and for the regulated community. Companies like BDC are already planning to pre-treat their wastewater prior to trucking and conveying it to Seaford's wastewater system, so simply setting influent limits for pollutants would serve several purposes - protecting public financial and natural resources and guiding the regulated community on what wastewater Seaford will accept. .

There is growing attention and concern on PFAS contamination from the land application of sludges and other industrial wastes.<sup>2</sup> "Researchers across the globe have reported PFAS and related compounds in groundwater and soils following the application of PFAS-containing soil amendments including biosolids and compost."<sup>3</sup> The U.S. Environmental Protection Agency is developing tools for regulators like DNREC to protect the public from these pollutants in water, air, and soils. Through this process, it has already completed analytical methods for monitoring 24 PFAS in wastewater as well as 50 PFAS in air emissions, **and recommends that permit writers begin phasing in monitoring requirements.**<sup>4</sup>

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<sup>2</sup> E.g., Gwynn R. Johnson, PFAS in Soil and Groundwater Following Historical Land Application of Biosolids, 211 WATER RESEARCH (Mar. 2022), <https://www.sciencedirect.com/science/article/abs/pii/S004313542101229X> ("The potential impact of PFAS present in soil amendments including biosolids on overall soil and groundwater quality is of concern.").

<sup>3</sup> Id.

<sup>4</sup> EPA, Status of EPA Research and Development on PFAS, <https://www.epa.gov/chemical-research/status-eparesearch-and-development-pfas#exposure>; see EPA Office of Water, Memorandum: Recommendations from the PFAS NPDES Regional Coordinators Committee Interim Strategy for Per- and Polyfluoroalkyl Substances in

## **DNREC should take a stronger position on POTW provisions under the wastewater permit.**

The Draft Permit, Special Conditions Part III (13) addresses the industrial pretreatment program. The POTW's goals are to protect POTW infrastructure, and reduce conventional and toxic pollutant levels discharged by industries and other nondomestic wastewater sources into municipal sewer systems and into the environment. Seaford is required to operate and implement a POTW pretreatment program, submit annual reports, conduct routine monitoring, notify EPA and DNREC of any pass throughs or interfaces related to a discharge, re-evaluate local limits based on a headworks analysis of a treatment plant, and to apply for pretreatment program changes under certain conditions. Until about 2021, Seaford had only had 1 significant industrial user (Orient Chemical of America) and 1 non-significant industrial user (Delaware Solid Waste Authority); in April 2021 Seaford added Ralph and Paul Adams, Inc. and Simmons Feed Ingredients as industrial users. See March 8, 2022 Pretreatment Report at 9. Over the years, Seaford has issued industrial discharge permits through its POTW program to other dischargers; SRAP remains concerned about the impacts of these dischargers, Seaford's struggle to regulate them, and how Seaford would regulate an incoming international entity like BDC.

For example, in 2017, EPA noted that Allen-Harim poultry hatchery was a continuing and significant source of copper - both for influent and effluent results, that non-contact cooling water is normally not regulated as process discharge, and instructed DNREC "we need to discuss the copper issue." See Apr. 18, 2017 Letter from EPA Region III to Seaford (without enclosures). In response, Seaford issued Allen-Harim Hatchery an industrial discharge permit, with copper discharge limits and compliance measures, that Allen-Harim believed unachievable. EPA repeatedly emphasized to Seaford that "we need to discuss" the Allen-Harim situation and elevated copper levels, copper calculations, and eventually EPA issued a notice of noncompliance to Seaford. Seaford had spent significant resources on testing, discussions, and consultants to address the situation, but that was still not enough to prevent Seaford from allegedly violating its permit. See, e.g., Apr. 18, 2017 Letter from EPA to Seaford; see Feb. 19, 2018 Letter from Seaford to EPA Region III. By 2018-2019, Allen-Harim planned on closing its hatchery, but there remained ongoing disputes regarding the City's permitting of the facility. See Feb. 19, 2018 Pretreatment Report to EPA at PDF p. 8-9; March 4, 2019 Pretreatment Performance Summary to EPA at PDF p. 6. However, even after Allen-Harim closed, Seaford continued to have copper exceedances despite copper decreases in headworks, effluent, and biosolids. See March 2, 2020 Annual Report at PDF p. 6-8; March 8, 2022 Pretreatment Report at 20, 22-24; March 22, 2023 Pretreatment Report at 22-24. We believe that the copper problem

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Federally Issued National Pollutant Discharge Elimination System Permits (2020), [https://www.epa.gov/sites/default/files/2020-11/documents/pfas\\_npdes\\_interim\\_strategy\\_november\\_2020\\_signed.pdf](https://www.epa.gov/sites/default/files/2020-11/documents/pfas_npdes_interim_strategy_november_2020_signed.pdf);

for Seaford risks, with BDC influent, rising again and that Seaford risks not being able to advocate for compliance. Thus, we ask DNREC to set stronger limits on the influent and effluent parameters of the wastewater permit now, to send a clear message to the regulated community.

**DNREC should set a clear deadline for Seaford to rectify longstanding headworks sampling problems.**

Seaford previously noted that “our headworks sampling location does not provide an ideal amount of blending with hauled wastes prior to sampling.” See, e.g., Feb. 19, 2018 Seaford Pretreatment Report to EPA at PDF p. 7. This problem appears to have continued. See March 4, 2019 Pretreatment Performance Summary to EPA at PDF p. 5; March 2, 2020 Annual Report at PDF p. 6. As part of the wastewater permit, DNREC should require Seaford to rectify this problem and DNREC should require a clear deadline for completion of this task.

**Sludge, Leachate, and Other Waste from Industrial Users must be more stringently regulated and sampled more diligently.**

The POTW reports show an overall rise in septage that Seaford is treating (from 2,559,750 gallons hauled in 2017 to 3,989,400 gallons in 2021 and 3,042,700 gallons in 2022). See POTW Reports 2014-2022 (with the exception of the 2020 POTW Report which SRAP was not able to access). The leachate that Seaford is receiving has varied from about 8 million - 9 million gallons per year (2014-2019) and approximately 5.5 million gallons in 2022. Seaford has also begun accepting other waste. E.g., barley malting wastewater (approximately 5.5 million gallons in 2018 and then terminated the arrangement when Seaford tried to require the user to obtain a permit), RAPA Scrapple, Cannon Cold Storage, and two industrial dischargers from Bridgeville.

In Seaford’s March 2, 2020 Annual Report, it states that “Seaford has entered into an agreement with Sussex County for processing of Biosolids generated at Seaford. The county is currently constructing a semi-regional Biosolids processing facility and partnering with several local municipalities to handle their Biosolids. We anticipate the off-site processing to begin around April 2020.” March 2, 2020 Annual Report at PDF p. 8. To the extent this disclosure relates to BDC, and Seaford’s acceptance of wastewater, sludge, leachate, or other waste, then that arrangement must be fully disclosed to DNREC as part of Seaford’s wastewater permit under review. We note that the agreement is not part of the public records released in this file.

With this increased waste, from increased sources and waste streams, SRAP is very concerned that Seaford still only performs periodic sampling on randomly chosen haulers for monitoring of hauled waste loadings. With the BDC proposal, waste will come into BDC from livestock operations - across three different states - and then after treatment will be conveyed to Seaford. SRAP suggests that more regular, formulaic, and stringent sampling is necessary to protect water

quality and human health. The “old method” of simply randomly choosing haulers is woefully inadequate; if Seaford is increasing its waste and wastewater management capacity, it has to make corresponding changes to its operations and monitoring to keep pace with these changes.

**Trucks and transfer of wastewater.**

With the number of trucks Seaford is already receiving wastewater from (as noted in the POTW reports) and the potential increase in trucks delivery wastewater from BDC, SRAP would like to see stronger and more protective practices and measures in the permit regarding how wastewater is transferred and unloaded to the permittee. The risk of accidents and spills increases with increased truck traffic, and we request that DNREC require more stringent measures to prevent such spills.

**Conclusion**

Thank you for considering SRAP’s comments on Seaford’s wastewater permit application, and our request for a public hearing.

Sincerely,

*Elisabeth Holmes*

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Enc: Dec. 2, 2022 Public Comments to DNREC regarding BioEnergy Development Co.’s permit applications (including wastewater permits) (without exhibits)