



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

Secretary's Order to Cease and Desist

Issued Pursuant to 7 *Del. C.* §6018

ORDER NO. 2024-WH-0041

***PERSONALLY SERVED BY
NEW CASTLE COUNTY SHERIFF***

Issued To:

Facility Owner

Alphatex, LLC
106 Willow Road
Woodmere, NY 11598

Facility Operator/Permittee

James Thompson & Co., Inc.
P.O. Box 2013
Greenwood, DE 19950

Facility Owner/Operator

Alphatex, LLC
James Thompson & Co., Inc.
301 South Church Street
Greenwood, DE 19950

**Registered Agent for James Thompson
& Co., Inc.**

United States Corporation Company
251 Little Falls Drive
Wilmington, DE 19808

This is to notify Alphatex, LLC and James Thompson & Company, Inc. ("Respondents") that the Secretary of the Delaware Department of Natural Resources and Environmental Control ("Department") has found Respondents in violation of 7 *Del. C.* Chapter 60 and 7 *Del. Admin. C.* Section 7101, Delaware's *Regulations Governing the Design, Installation, and Operation of On-Site wastewater Treatment and Disposal Systems* ("Wastewater Regulations"). Accordingly, the Department is issuing this Secretary's Order to Cease and Desist all unpermitted discharge activities as documented below, pursuant to 7 *Del. C.* §6018.

BACKGROUND

1. The Secretary of the Department is responsible for the protection of the public health and safety, and the health of organisms and the environment from the effects of the improper, inadequate, or unsound management of wastewater, by establishing a program of regulation over the storage, transportation, handling and disposal of wastewater, and to assure the safe and adequate management of wastewater within the State of Delaware, pursuant to the authority set forth in 7 *Del. C.* Chapter 60.

2. Respondent James Thompson & Co., Inc. ("Permittee") historically owned and operated a fabric processing facility located at 301 South Church Street, Greenwood Delaware ("Facility"). On March 17, 2015, the Department issued a Spray Irrigation Operations Permit Renewal (No. 359148-04) to Permittee authorizing the land application of screened wastewater from fabric finishing, fabric dyeing, fabric rinsing, burlap bleaching, boiler blow down, and water conditioner back washing. The on-site wastewater treatment and disposal system ("OWTDS") consists of sediment ditch with bar screens, two sediment pits, 3.4-million-gallon aerated storage lagoon, along with appropriate pumps, piping, and meters. Wastewater from the storage lagoon is discharged to approximately 45.15-acres for disposal via a spray irrigation system. The Permit includes terms and conditions designed to protect public health and the environment. On December 2, 2019, the Department received a OWTDS Application for Permit Renewal from the Permittee, and therefore the terms and conditions of the permit are continued and remain fully effective and enforceable. The Permittee ceased spray irrigation activities in April 2023; however, the Permittee has not taken required action to terminate the permit and, therefore, continued permit compliance is required.

3. On or about January 10, 2024, Respondent Alphatex, LLC purchased the Facility at Sheriff's Sale. Permittee has continued operating a fabric business at the Facility since the transfer.

4. On July 9, 2024, Department staff inspected, and performed surveying and groundwater monitoring activities at the site. Review of the Facility's logbook, as compared to the on-site conditions, revealed an eight-inch reduction in the level of wastewater in the lagoon between January 2024 and July 2024. Staff noted that the Facility's logbook showed no entries since January 10, 2024, and the spray totalizer confirmed that no spray irrigation activities had

occurred from the lagoon since April 2024; therefore, lagoon levels were not being monitored and maintained in accordance with Permit Renewal No. 359148-04. Accordingly, staff began to survey elevations of the perimeter of the lagoon. Near the southwest corner of the lagoon, staff observed a pipe that was actively discharging water at a rate estimated to be at least 0.5 gallons per minute from the lagoon onto the forest floor immediately adjacent to the lagoon. The Permittee and current property owner (Alphatex LLC) were notified of the unauthorized discharge from the lagoon via email on July 12, 2024, and put on notice that active lagoon management in accordance with Permit Renewal No. 359148-04 was required to eliminate the ongoing discharge and prevent future unauthorized discharge from occurring.

5. In a subsequent site visit on August 1, 2024, staff observed that lagoon levels had dropped by half an inch; however, the unpermitted discharge was continuing from the pipe in the southwest corner of the lagoon at a slightly slower rate. Staff again noted that the Facility's logbook showed no entries since January 10, 2024, and the spray totalizer had not changed since the July 12, 2024, inspection; therefore, lagoon levels were still not being monitored and maintained in accordance with Permit Renewal No. 359148-04.

6. Staff returned to the Facility on September 30, 2024, to assess if the Permittee had performed any activities to comply with Permit Renewal No. 359148-04 regarding lagoon operation and maintenance requirements. There was no ongoing active discharge from the lagoon during the site visit; however, evidence of discharge was present. Staff noted that due to dry weather, lagoon levels have dropped and therefore discharge had slowed dramatically; however, the discharge pipe was not capped, and active discharge will resume if lagoon levels increase again following rain events unless the Permittee actively manages lagoon levels or caps the outflow pipe. Staff then confirmed via the Facility's logbook that the Permittee has still not been monitoring lagoon levels since no entries have been made since January 2024 and that the lower lagoon level is a result of the unpermitted discharge and lack of rain/evaporation since the spray totalizer shows that no spray irrigation activities have occurred since April 2024.

FINDINGS

The Department has found the Respondent in violation of Permit Renewal No. 359148-04, 7 *Del. C* § 6003(a)(2), and the Wastewater Regulations including but not limited to:

1. 7 *Del. C* § 6003(a)(2) states, in relevant part:

“No person shall, without first having obtained a permit from the Secretary, undertake any activity in any way which may cause or contribute to discharge of a pollutant into any surface or ground water.”

2. 7 *Del. Admin. C* § 7101 – 3.10 states:

“Discharge of untreated or partially treated wastewater or septic tank effluent directly or indirectly onto the ground surface or into groundwater and/or surface waters of the State, unless authorized by a permit issued by the Department, constitutes a public health hazard and is prohibited.”

3. 7 *Del. Admin. C* § 7101 – 6.7.1 states:

“The permittee must properly maintain and operate all structures, pipelines, systems and equipment for treatment control and monitoring which are used by the permittee to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance includes, but is not limited to, effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures.”

ORDER

IT IS HEREBY ORDERED, based on the foregoing findings and pursuant to the authority vested in the Secretary by 7 *Del. C* § 6018 that the Respondent shall:

1. Upon receipt of this Order, immediately cease and desist all operations in violation of the permit, including but not limited to all unpermitted releases from the wastewater lagoon. Respondent is advised that, pursuant to 7 *Del. C* § 6018, this Order to Cease and Desist shall expire: 1) thirty (30) days after Respondent's receipt thereof, or 2) upon withdrawal of this Order by the Secretary, or 3) when this Order is suspended by an injunction, whichever occurs first.

The Department reserves the right to take additional enforcement actions regarding these and other violations at the facility, including but not limited to one or more of the following: an action under 7 *Del. C* §6005(b)(1) seeking penalties for past violations, an action under 7 *Del C*. §6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C* §6005(b)(3) and §6005(c)(1).

If you have any questions, please contact Jennifer Roushey at (302) 739-9949 or jennifer.roushey@delaware.gov.

Date: October 2, 2024



For Shawn M. Garvin, Secretary
Department of Natural Resources
and Environmental Control

Cc: Kayli Spialter, Deputy Attorney General
Steven Smailer, Division Director, Water