



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

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OFFICE OF THE
SECRETARY

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Secretary's Order No.: 2023-W-0004

RE: Permit Application of Allen Harim Foods, LLC ("Allen Harim"), requesting a State of Delaware Non-Hazardous Liquid Waste Transporters Permit authorizing the collection, transportation, and disposal of non-hazardous liquid waste to Allen Harim's Harbeson Processing Facility for treatment and disposal

Date of Issuance: January 23, 2023

Effective Date: January 23, 2023

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to *7 Del.C. §§6003, 6004, 6006, Delaware's Regulations Governing the Design, Installation, and Operation of On-Site Wastewater Treatment and Disposal Systems (7 DE Admin. Code 7101)*, and all other relevant statutory authority, the Department of Natural Resources and Environmental Control ("Department" or "DNREC") issues this Order, approving the permit application of Allen Harim Foods, LLC ("Allen Harim" or "Applicant"), requesting a State of Delaware Non-Hazardous Liquid Waste Transporters Permit to authorize the collection, transportation and disposal of non-hazardous liquid waste (i.e., poultry process wastewater) from both the Applicant's Hatchery No. 2 in Dagsboro, Delaware, and its Pinnacle Processing Facility in Millsboro, Delaware, to Allen Harim's Harbeson Processing Facility for treatment and disposal ("Application").

Background, Procedural History and Findings of Fact

The Department issues Non-Hazardous Liquid Waste Transporters Permits (hereinafter referred to as a “Transporters Permit”), such as the one requested by Allen Harim in the aforementioned Application, to specifically regulate the safe hauling, conveyance, or transport of any non-hazardous liquid waste, with the intention of delivering such liquid waste from one location to another, over the public roads of the State of Delaware. The Transporters Permit does include operational, maintenance and insurance requirements to ensure that non-hazardous liquid wastes are collected and transported in a manner designed for the protection of public health and the environment, as required by 7 DE Admin. Code 7101, *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems* (“Regulations”). It should be noted that the actual treatment and disposal of such waste is regulated through the treatment and disposal permits of the facilities receiving the waste, and not through the Transporters Permit.

On October 4, 2019, the Department’s Division of Water received the Application submitted by Allen Harim, seeking the aforementioned Transporters Permit, to specifically authorize the transportation of non-hazardous liquid waste (i.e., poultry process wastewater) from both the Applicant’s Hatchery No. 2 in Dagsboro, Delaware, and its Pinnacle Processing Facility in Millsboro, Delaware, to its Harbeson Processing Facility for treatment and disposal. After determining it to be administratively complete, the Department advertised receipt of the Application in both the *News Journal* and the *Delaware State News* on December 19, 2019. The legal notice also advertised that the Department had scheduled a public hearing to be held regarding this Application on January 8, 2020.

Department staff, representatives of the Applicant, and members of the public attended the public hearing held on Allen Harim’s Application, and on the proposed Draft Permit prepared by the Department regarding this matter, at the Indian River Senior Center in Millsboro, Delaware, on January 8, 2020. It should be noted that comments were received from the public at the time of the public hearing, and the same were posted on the DNREC hearing web page dedicated to this matter. Proper notice of the hearing was provided as required by law.

Following the close of the public comment period, and at the request of Hearing Officer Lisa A. Vest, the technical experts in the Department's Division of Water provided a Technical Response Memorandum ("TRM") in response to the public comments received by the Department about Allen Harim's pending Application. The TRM, dated October 5, 2022, provides a summary of the public comments received by the Department in this permitting matter, and offers detailed responses to the same.

Subsequent to the receipt of the Department's TRM referenced above, Hearing Officer Vest prepared her Hearing Officer's Report ("Report"), dated January 4, 2023. The Report expressly incorporated therein the aforementioned TRM, along with all of its Appendices, including, but not limited to, the Department's finalized Draft Permit, as Appendix "A." Ms. Vest's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report, and provided findings of fact, reasons, and conclusions that recommend the approval of Allen Harim's Application currently pending before the Department, subject to the conditions set forth in the finalized Draft Permit.

The Report, along with its Appendix, is incorporated herein by reference. The Report also addressed the public comments received in this matter and concluded that the same did not warrant the Department's denial of Allen Harim's pending Application, nor the delay of the decision regarding this requested Transporters Permit to receive any additional information.

Reasons and Conclusions

Currently pending before the Department is the pending Application submitted by Allen Harim, requesting a State of Delaware Non-Hazardous Liquid Waste Transporters Permit to authorize the collection and transportation of non-hazardous liquid waste (i.e., poultry process wastewater) from both the Applicant's Hatchery No. 2 in Dagsboro, Delaware, and its Pinnacle Processing Facility in Millsboro, Delaware, to Allen Harim's Harbeson Processing Facility for treatment and disposal. I find that the Applicant is required to obtain the aforementioned Transporters Permit, for the reasons noted above.

I further find that Allen Harim's Application is subject to various state and federal regulatory requirements, including, but not limited to, 7 DE Admin. Code 7101, as noted above, and as provided for under 7 *Del.C.* Ch. 60.

In reviewing the applicable statutes and regulations, as well as weighing public benefits of this project against potential detriments, the Department's technical experts in the Division of Water have concluded that the pending Application complies with all applicable federal and state laws and regulations. The Transporters Permit to be issued by the Department in this matter will be reflective of the Application submitted by Allen Harim and will be appropriately conditioned to ensure continued protection of public health and the environment.

The Department's TRM acknowledges the comments received from the public concerning the Allen Harim Application, and thoroughly responds to the same. For the purposes of brevity, this Order defers to the Division of Water's TRM in its entirety for a complete understanding of the concerns raised in the public comments received by the Department in this matter, as well as the Department's formal responses to the same. Rather than attempting to relay each concern voiced by the public in the comments received in this matter, this Order will highlight the Department's responses to the public's concern as provided for in full within the aforementioned TRM.

In response to multiple comments expressing concern that the Application provided limited information, the TRM not only confirmed that all required information and documents were submitted to the Department by the Applicant, but also noted that wastewater hauling from Allen Harim's Hatchery No. 2 and Allen Harim's Pinnacle Processing Facility is restricted to 40,000 gallons per day from each site. This hauling limitation is in accordance with Allen Harim's Onsite Wastewater Treatment and Disposal System ("OWTDS") Operations Permit for the wastewater treatment system receiving the wastewater at the Allen Harim Harbeson Processing Facility. Additionally, pursuant to the Applicant's OWTDS Operations Permit, Allen Harim will be required to record the volume of wastewater received from the Hatchery and Pinnacle Facility daily. The daily and total volumes from each site will be submitted to the Department in monthly monitoring report submittals.

Multiple commenters expressed concerns with the water quality to be transported to the Allen Harim Harbeson Processing Facility's wastewater treatment system. Specifically, concerns were raised about the presence of quaternary ammonium compounds ("QACs"), potential impacts on the wastewater treatment process and environment, and the need for sampling wastewater prior to hauling. In response, the TRM notes that Allen Harim is seeking the authorization to transport poultry processing wastewater from one location to another over the public roads of the State of Delaware. While poultry processing wastewater contains high levels of organic and inorganic constituents, it is considered a non-hazardous liquid waste, and the treatment and disposal of such waste is regulated through the treatment and disposal permits of the facilities receiving the waste, and not through the Transporters Permit. Additionally, poultry processing wastewater, as a waste stream, is well characterized in scientific literature (as set forth in Table 1 of the TRM), and therefore the Department does not require routine or random sampling under the Transporters Permit.

In response to multiple comments that raised concerns regarding the environmental safety of hauling activities and impacts to traffic patterns, the TRM notes that the Transporters Permit does include operational and maintenance requirements to ensure that non-hazardous liquid wastes are collected and transported in a manner that is protective of public health and the environment. Once a transporter safely delivers non-hazardous liquid waste to an authorized facility, it is that facility's responsibility to safely treat and/or dispose of the waste. All disposal facilities that receive non-hazardous liquid waste are permitted by the Department. The permits issued to such facilities include effluent limitations (if applicable), monitoring, reporting, and operational requirements.

Facilities that discharge or land apply wastes have permit requirements that include effluent composite sampling for nutrients, metals, pH, and other inorganics, soil monitoring, groundwater monitoring, and authorize land application at specific agronomic rates. Additionally, Section 3.20 of the aforementioned Regulations authorizes the Department to require Permittees such as Allen Harim to take all necessary actions to eliminate and correct any adverse impact on public health or the environment resulting for Permit noncompliance.

It should be noted that the Department does not regulate traffic impacts and travel routes associated with Transporter Permits. Traffic impacts, travel routes, and general truck safety requirements are regulated under the authority of the Delaware Department of Transportation and/or the Delaware State Police.

I find that the Division of Water's TRM offers a thorough review of all aspects of the Applicant's pending Application, addresses those concerns germane to the subject matter of the aforementioned public hearing held by the Department in this matter, and responds to them in a balanced manner, accurately reflecting the information contained in the Record. The Record developed in this matter indicates that the Department's experts in the Division of Water have concluded that Allen Harim's Application complies with all statutes and regulations that govern such permitting actions, have weighed public benefits of the issuance of a Transporters Permit to the Applicant against potential detriments, and have recommended approval of the same.

I find and conclude that the Record supports approval of the Application submitted to the Department by Allen Harim, as set forth above. The Transporters Permit to be issued by the Department will be reflective of the Application submitted by Allen Harim, and consistent with the finalized Draft Permit prepared by the Department's experts in the Division of Water, to ensure continued protection of public health and the environment, and consistent with the Record developed in this matter.

Accordingly, this Order approves the issuance of a State of Delaware Non-Hazardous Liquid Waste Transporters Permit to Allen Harim, authorizing the collection, transportation and disposal of non-hazardous liquid waste (i.e., poultry process wastewater) from both the Applicant's Hatchery No. 2 in Dagsboro, Delaware, and its Pinnacle Processing Facility in Millsboro, Delaware, to Allen Harim's Harbeson Processing Facility for treatment and disposal, consistent with the finalized Draft Permit prepared by the technical experts in the Department's Division of Water, and consistent with the Record developed in this matter.

Further, the Department concludes and specifically directs the following:

1. The Department has jurisdiction, as provided for under *7 Del.C. Ch. 60, 7 DE Admin. Code 7101, Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems*, and all other relevant statutory authority, to make a final determination on the aforementioned pending permit applications submitted by Allen Harim after holding a public hearing, considering the public comments, and all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the aforementioned Application submitted by Allen Harim, and of the public hearing held on January 8, 2020, and held the hearing to consider any public comments that may be offered on the Application, in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the Department's TRM of October 5, 2022, and the aforementioned finalized Draft Permit, both of which have now been expressly incorporated into the Record generated in this matter;
4. The Department has carefully considered the factors required to be weighed in issuing the permit amendment required by the aforementioned Application submitted by Allen Harim, and finds that the Record supports approval of the same;
5. The Department shall issue to the Applicant a State of Delaware Non-Hazardous Liquid Waste Transporters Permit, authorizing the collection, transportation and disposal of non-hazardous liquid waste (i.e., poultry process wastewater) from both the Applicant's Hatchery No. 2 in Dagsboro, Delaware, and its Pinnacle Processing Facility in Millsboro, Delaware, to Allen Harim's Harbeson Processing Facility for treatment and disposal, consistent with the finalized Draft Permit prepared by the Department's Division of Water, and consistent with the Record developed in this matter;

6. Furthermore, said Transporters Permit shall include all conditions as set forth in the Department's TRM, along with the aforementioned finalized Draft Permit, to ensure that Delaware's environment and public health will be protected from harm;
7. The Department adopts the Report and its attachments as further support for this decision;
8. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
9. The Department shall serve and publish its Order on its internet site.



Shawn M. Garvin
Secretary