



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

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SECRETARY

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**Secretary's Order No.: 2021-W-0012**

**RE: On-Site Wastewater Treatment and Disposal System Operations Permit Application  
of Allen Harim Foods, LLC ("Allen Harim") to treat poultry processing  
wastewater at its Harbeson Processing Facility in  
Harbeson, Delaware**

**Date of Issuance: April 27, 2021**

**Effective Date: April 27, 2021**

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 On-Site Wastewater Treatment and Disposal System ("OWTDS") Operations Permit Application of Allen Harim Foods, LLC ("Allen Harim" or "Applicant") to treat poultry processing wastewater at its Harbeson Processing Facility in Harbeson, Sussex County, Delaware ("Application").

The Application submitted by Allen Harim is subject to various state and federal regulatory requirements, including, but not limited to, Delaware's *Regulations Governing the Design, Installation, and Operation of On-Site Wastewater Treatment and Disposal Systems*, as set forth in 7 DE Admin. Code 7101 ("Regulations"), and as provided for under Delaware law in 7 *Del.C.* Chapter 60.

The Allen Harim Application is very closely aligned with another permit application submitted to the Department by Artesian Wastewater Management, Inc. (“Artesian”). Artesian applied for a State of Delaware Operations Permit to receive treated wastewater effluent from the Allen Harim Harbeson Processing Facility’s on-site wastewater treatment system for storage in a synthetically lined lagoon, and disposal via spray irrigation at the Artesian Northern Sussex Regional Water Recharge Facility (“ANSRWRF”) in Milton, Delaware.

The Department processed the permit applications of Allen Harim and Artesian together to assure transparency, and to make sure the public was afforded the ability to provide meaningful comment on the complete process of treatment of the wastewater at Allen Harim, and disposal of the same at ANSRWRF, as noted above. The Artesian Application was approved with the execution of DNREC Secretary’s Order No. 2020-W-0008, and the issuance of On-Site Permit No. 359288-02 (both dated March 18, 2020). Thus, this Order concerns only the remaining pending Application of Allen Harim, as set forth below.

### **Background, Procedural History and Findings of Fact**

Allen Harim has applied for a State of Delaware OWTDS Operations Permit to treat poultry processing wastewater at the Allen Harim Harbeson Processing Facility via its on-site treatment system. The majority of poultry processing water is generated on-site at the Harbeson facility, with a minor amount discharged to the treatment system from the Allen Harim Pinnacle Processing Facility in Millsboro, Delaware, and the Allen Harim Hatchery in Dagsboro, Delaware. The Harbeson facility’s wastewater treatment system consists of primary screening, grit removal, dissolved air flotation (“DAF”) unit, two anoxic biological nutrient removal (“BNR”) basins, two complete mixed activated sludge (“CMAS”) aeration basins, flocculation tank, two clarifiers, and a chlorine contact tank. The treatment train also includes two aerobic digesters and a screw press unit for sludge processing.

The facility is capable of diverting non-compliant wastewater to on-site basins/lagoons, followed by recirculating and retreating the wastewater. The treated wastewater effluent will be pumped via force main to ANSRWRF for storage in a synthetically lined lagoon and disposal via spray irrigation.

The Application submitted by Allen Harim was deemed technically complete by the Department on July 24, 2019. Given the level of public interest on the Applicant's proposed activities as set forth above, the Department made the decision to schedule a public hearing. Accordingly, the Department published legal notices in the *Sunday News Journal* and the *Delaware State News* on July 31, 2019, advertising that a public hearing would be held, as referenced above. Thereafter, the Department held its public hearing on August 21, 2019.

Department staff, representatives of both Artesian and Allen Harim, and approximately one hundred members of the public attended the August 21, 2019 public hearing. Many of the hearing attendees provided comment on both permit applications. Due to the high level of public interest, and in response to requests made by the public at the time of the hearing for the Department to extend the public comment period, the hearing record ("Record") remained open for receipt of public comments through September 27, 2019. It should be noted that comments were received from the public not only at the time of the public hearing, but also during both the pre- and post-hearing phases of this permitting matter. Proper notice of the hearing was provided as required by law.

Following the close of the public comment period as noted above, and at the request of Hearing Officer Lisa A. Vest, the technical experts in the Department's Division of Water, Groundwater Discharges Section ("GWDS"), provided an initial Technical Response Memorandum ("TRM"), dated December 31, 2019, in response to the public concerns received by the Department about Allen Harim's pending Application.

Subsequent to the date of the TRM noted above, the Department's GWDS received additional information from Allen Harim regarding the proposed timelines for completion of various storage lagoon rehabilitation projects. Accordingly, an Amended TRM (dated March 9, 2020) was provided to Hearing Officer Vest to update the GWDS's previous responses to the public comments received in this matter, and to reflect revisions made at that time to the draft OWTDS Operations Permit ("Draft Permit") associated with this pending Application.

Over the next several months, the Department's GWDS continued to work with Allen Harim to ensure that all ongoing compliance requirements were being met. During that time, updated information was received from Allen Harim which, in turn, warranted further changes in the Applicant's Draft Permit conditions. Accordingly, the GWDS provided Hearing Officer Vest with a Supplemental TRM, dated August 4, 2020. The Supplemental TRM was prepared to update and revise the Record, specifically, the GWDS's Amended TRM of March 9, 2020, to reflect the updated information received from Allen Harim as noted above.

The Supplemental TRM of August 4, 2020 also updated the GWDS' previous responses to public comments received in this matter, specifically, to reflect the revisions made at that time to the Draft Permit for on-site wastewater treatment by Allen Harim in Harbeson, Delaware. The revisions were necessitated as a result of the additional information submitted by Allen Harim with regard to methods for compliance assurance with the proposed flow limits set forth in the Draft Permit. Additionally, the GWDS updated the Record at that time to reflect compliance schedule revisions that must occur in the Draft Permit due to delays in Allen Harim's submission of supplemental information, as well as the delay of the lining of the on-site stormwater pond for diversion. Finally, the Supplemental TRM confirmed that the compliance schedule for the cleanout of the old anaerobic lagoon had been adjusted in the Draft Permit, based on an extension request from Allen Harim (made due to the ongoing COVID-19 pandemic).

The Supplemental TRM of August 4, 2020 provides updated responses to the public comments specifically associated with Allen Harim's Application currently pending with the Department and remains as the formal recommendations of the GWDS at this time. It does not, however, address those comments that pertain to matters outside the permitting authority of the GWDS, nor is it responsive to any comments not specifically related to this Application, which was the subject matter of the public hearing held by the Department on August 21, 2019.

To serve as a status update for the benefit of the Record, and to confirm that the recommendations of the GWDS continued to stand as stated in the Supplemental TRM, Jennifer Roushey, Environmental Program Administrator in the Department's Division of Water, provided to Hearing Officer Vest an email dated October 8, 2020. In this email, Ms. Roushey advised that the Department continued to work with Allen Harim to ensure that the Applicant's commitments and ongoing compliance requirements were being addressed, and that any interim compliance dates that had passed would be adjusted accordingly prior to permit issuance.

On March 9, 2021, Ms. Roushey provided another status update email to Hearing Officer Vest, confirming that the Department continued to work with Allen Harim, specifically, to assure that flow reduction commitments and lagoon cleanout requirements were being addressed. Due to the moisture content of the lagoon sludge, however, Allen Harim was now seeking to dewater the sludge, utilizing geotubes within a temporary sludge storage facility on Allen Harim's property prior to proper offsite disposal. To accommodate the additional permit application and public notice processes required for the construction and operation of such a sludge storage facility, the Department made a minor adjustment at that time to the compliance schedule set forth in the Draft Permit. Previously, the Draft Permit stated that cleanout completion of the old anaerobic lagoon would occur by May 31, 2021. In lieu of the May 31, 2021 date, the Draft Permit was adjusted to state that cleanout completion shall occur no later than 6 months from the date that Allen Harim obtains a permit for the aforementioned construction and operation of the sludge storage facility.

Allen Harim proceeded to address the lagoon cleanout efforts as set forth above and submitted to the Department a permit application for the construction and operation of a temporary sludge storage facility to be built on the Applicant's property. On April 6, 2021, however, Ms. Roushey provided another status update email to Hearing Officer Vest for the benefit of the Record in this matter. In this update, Ms. Roushey advised that subsequent to March 9, 2021, Allen Harim was notified by Sussex County that a Conditional Use Approval would need to be obtained in order to construct the aforementioned sludge storage facility. Furthermore, Sussex County advised that the process to obtain such approval would further delay Allen Harim's proposed lagoon cleanout activities by at least an additional six months.

In order to avoid such a prolonged delay, Ms. Roushey advised that Allen Harim would be abandoning the previous plan for the construction and operation of the sludge storage facility, and instead proceed with the lagoon cleanout by utilizing a centrifuge to dewater the sludge and then hauling it to an approved disposal facility in Virginia. This revised path forward essentially followed the Applicant's proposal set forth at the time the Department provided original public notice of Allen Harim's permit application back in 2019. Once again, the compliance schedule as set forth in the Draft Permit was adjusted to state that the lagoon must be cleaned, lined and ready for service within six months of Operations Permit issuance (instead of within six month of temporary sludge storage permit issuance, as the sludge storage would no longer be required). At that time, the Department expected Allen Harim to reinitiate lagoon cleanout activities on or about May 1, 2021.

On April 21, 2021, Ms. Roushey provided the most recent email update to Hearing Officer Vest, with updated attachments, for the benefit of the Record generated in this matter. In that email, Ms. Roushey advised that on April 16, 2021, Allen Harim notified the Department that their lagoon cleanout contractor would require eight (8) months to complete the lagoon cleanout operations and synthetically re-line the old anaerobic lagoon, rather than then six (6) month schedule previously provided to the GWDS.

Ms. Roushey's April 21, 2021 email further advised that, due to the delays in starting the cleanout activities, the contractor's resources and equipment will not be available to reinitiate such activities until mid-June (as opposed to the previously anticipated May 1, 2021 start date noted above). Additionally, since the sludge is being dewatered, live loaded, and then hauled to an approved landfill (rather than stored onsite for dewatering), cleanout operations will be limited by the number of trucks per day of material the landfill will accept. This limiting factor will result in the need for extra time to complete the lagoon cleanout activities. To provide further documentation and clarity for the Record generated in this matter, this April 21, 2021 email also provided the Lagoon Cleanout Schedule and the updated Draft Permit as attachments thereto.

Since the lined stormwater pond remains a viable option for the wastewater diversion (if needed), there is no anticipated environmental impact from the GWDS granting the additional two months to complete the necessary anaerobic lagoon cleanout activities. Accordingly, the compliance schedule as set forth in the updated Draft Permit (hereinafter referred to as the "revised final Draft Permit") has now been adjusted to accommodate this request. Part 1, F.(2.) now states:

*The Permittee shall complete cleanout operations, rehabilitate, and synthetically re-line the "old" anaerobic lagoon to be used as the permanent diversion option for non-compliant wastewater no later than 8 months from the effective date of this permit. The recently relined stormwater lagoon shall be used as a temporary diversion option in the interim.*

Ms. Roushey's April 21, 2021 email concludes by confirming that the Department will continue to work with Allen Harim to assure cleanout efforts are expedited to the maximum extent practicable and that progress towards compliance with lagoon cleanout requirements continues.

The GWDS believes that the *revised final* Draft Permit addresses the technical and regulatory concerns of both the public and the permittee, while fulfilling the Department's mission to protect the public health and the environment. It should be noted that the *revised final* Draft Permit supersedes all other versions of the Draft Permit previously incorporated into the hearing record by the Department in this matter. Further, while the Artesian Operations Permit closely aligned with this matter was signed and issued back on March 18, 2020, the issuance of an Operations Permit for Allen Harim was delayed, per the GWDS's recommendation, until a viable diversion option was established for nonconforming wastewater in the event effluent limits are exceeded in the future.

Subsequent to the receipt of the Department's TRMs and email status updates referenced above, Hearing Officer Vest prepared her Hearing Officer's Report ("Report"), dated April 22, 2021, which expressly incorporated said documentation therein. 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 Department approve Allen Harim's Application, subject to the conditions set forth in the *revised final* Draft Permit prepared by the GWDS. The Report 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 permit decision to receive any additional information.

### **Reasons and Conclusions**

The OWTDS Operations Permit Application submitted by Allen Harim seeks permission to treat poultry processing wastewater at its Harbeson Processing Facility in Harbeson, Delaware. I find that the proposed project requires the Applicant to obtain an OWTDS Operations Permit, as noted above.



I further find that Allen Harim's proposed project is subject to various state and federal regulatory requirements, including, but not limited to, Delaware's *Regulations Governing the Design, Installation, and Operation of On-Site Wastewater Treatment and Disposal Systems*, as set forth in 7 DE Admin. Code 7101, and as provided for under Delaware law in 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 experts in the GWDS have concluded that Allen Harim's Application complies with all applicable federal and state laws and regulations. The OWTDS Operations Permit that would be issued by the Department would be reflective of the Application submitted by Allen Harim, and would include water quality limitations, along with operational, monitoring, and reporting requirements for the Applicant, to ensure continued protection of public health and the environment.

In response to the above referenced comments received from the public in this matter, the Department has sought to minimize the impacts to the surrounding communities. To that end, the Department's experts in GWDS have made the following determinations:

1. Allen Harim's wastewater treatment system will be required to produce the State of Delaware's highest treatment level needed for unlimited public access, which is the same level of treatment required on Delaware's golf courses and parks.
2. The wastewater will also be disinfected, and a residual chlorine content will be provided to ensure that bacteria and viruses are killed to below acceptable levels.
3. There will be nitrogen and phosphorus present in the wastewater, however, the concentrations of these constituents are accounted for in the nitrogen balance, vegetative management plan, and amount of acreage to be used for the spray irrigated wastewater at ANSRWRF.

4. Allen Harim has the ability to divert non-compliant wastewater on-site for retreatment, if needed.
5. Allen Harim has completed the synthetic lining of the former stormwater pond that will be used for effluent diversion (if needed), and therefore has system components in place, as required under the *revised final* Draft Permit.

Given the above determinations, the GWDS believes that the OWTDS Operations Permit for the Allen Harim Harbeson Processing Facility will be protective of public health and the environment.

The Record developed in this matter indicates that the Department's GWDS experts have considered all statutes and regulations that govern projects such as the Applicant's above proposed activities and have recommended approval of the OWTDS Operations Permit necessary for the same. I find and conclude that the Applicant has adequately demonstrated compliance with all requirements of the statutes and regulations and is continuing to work with the Department to assure Allen Harim's commitments and ongoing compliance requirements are met, as noted herein. I further find that the Record supports approval of the Application as submitted by Allen Harim in this matter.

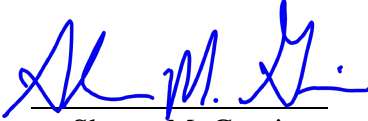
Moreover, I find and conclude that the Record supports the recommendations of the Department's experts in the GWDS, as set forth in the Amended TRM of March 9, 2020, the Supplemental TRM of August 4, 2020, and Ms. Roushey's email status updates of October 8, 2020, March 9, 2021, April 6, 2021 and April 21, 2021 (with attachments, as noted herein), including, but not limited to, the recommendation concerning the issuance of the *revised final* OWTDS Operations Permit for the Applicant, for the reasons noted above.

Accordingly, this Order approves the issuance of the *revised final* OWTDS Operations Permit for the Allen Harim Harbeson Processing Facility, located in Harbeson, Delaware, consistent with the Record developed in this matter and with appropriate conditions.

Further, the Department concludes and specifically directs the following:

1. The Department has jurisdiction under 7 Del. C. §§6003, 6004, 6006(4), 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, to make a final determination on the Application 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 Application submitted by Allen Harim, and of the public hearing held on August 21, 2019, and held said 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 TRMs and email status updates provided by the Department's GWDS, 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 required by the Application, and finds that the Record supports approval of the same;

5. The Department shall issue to Allen Harim the On-Site Wastewater Treatment and Disposal System Operations Permit for the Allen Harim Harbeson Processing Facility in Harbeson, Delaware, consistent with the Record developed in this matter. Furthermore, said permit shall include all conditions as set forth in the Department's *revised final* Draft Permit for Allen Harim, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department adopts the Report and its attachments as further support for this decision;
7. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
8. The Department shall serve and publish its Order on its internet site.



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Shawn M. Garvin  
Secretary