

CONCILIATION ORDER BY CONSENT

SECRETARY'S ORDER No. 2021-W-0013

Issued Pursuant to 7 Del. C. §6005(b)(2)

Issued to: Mickey Baugher –CEO
Allen Harim Foods, LLC
29984 Pinnacle Way
Millsboro, DE 19966

Dear Mr. Baugher:

This Conciliation Order by Consent and Secretary's Order ("Order") reflects the mutual effort by Allen Harim Foods, LLC ("Allen Harim") and the Secretary of the Department of Natural Resources and Environmental Control ("Secretary or DNREC") (collectively the "Parties") to attain compliance with 7 Del. C. Chapter 60 by Conciliation pursuant to 7 Del. C. §6005(b)(2).

This Agreement is the result of negotiations between the Parties to address the following alleged violations and complaints:

- (i) Lack of progress terminating the stream discharge from Allen Harim's Millsboro facility. Allen Harim committed to eliminating the stream discharge by June 2020. To date, no wastewater disposal permit application has been submitted;
- (ii) Lack of progress implementing anaerobic lagoon cleanout activities at Allen Harim's Harbeson facility;
- (iii) Increases in wastewater production at Allen Harim's Harbeson facility prior to the pandemic. This increase is inconsistent with the terms and conditions of the draft Operations Permit for onsite wastewater treatment currently under review; and
- (iv) Recent compliance issues observed at Allen Harim's Harbeson facility including effluent violations.

The Parties have negotiated in good faith and are desirous of seeking an amicable resolution of the issues to avoid the expense, burden, inconvenience, and uncertainty of administrative proceedings or litigation, and, in exchange for the mutual considerations set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree to be bound by the terms and conditions that follow:

SECTION I: BACKGROUND

Allen Harim Millsboro Facility – Discontinuation of Stream Discharge

The Department administers and regulates stormwater discharges and process wastewater discharges from industrial facilities pursuant to the Secretary's authority under 29 *Del. C.* Chapter 80 and 7 *Del. C.* Chapter 60. Additionally, pursuant to program authorization from the Environmental Protection Agency ("EPA"), the Department administers the National Pollution Discharge Elimination System ("NPDES") Permit Program in Delaware, codified in Delaware's *Regulations Governing the Control of Water Pollution* ("DRGWP").

Allen Harim Foods, LLC owns and operates corporate headquarters and a deboning operation at 29984 Pinnacle Way, Millsboro, Delaware, which was the former Pinnacle Foods Processing Plant ("Millsboro facility"). Allen Harim currently holds an administratively extended, contractually assigned NPDES discharge permit (DE0000784), which allows for the discharge of treated sanitary effluent to Wharton's Branch, a tributary of Iron Branch and the Indian River. Allen Harim is not authorized via their NPDES permit to treat and stream discharge process wastewater from their deboning operation; therefore, they received temporary approval from the Department to truck up to 40,000 gallons per day of deboning water to Allen Harim's Harbeson facility for treatment and disposal in 2018. When this temporary authorization was given, Allen Harim had committed to the upgrade of the Millsboro wastewater treatment facility and transition from stream discharge to treated effluent disposal via spray irrigation by June of 2020.

Allen Harim has submitted four (4) Letters of Intent regarding proposed wastewater disposal systems between November 2017 and February 2020; however, no permit applications have ever been submitted in pursuit of these disposal options. As such, Allen Harim will not meet the commitment of ceasing stream discharge by June of 2020, and instead via its February 18, 2020 Letter of Intent and proposed permitting and construction schedule, was not anticipating termination of stream discharge until January of 2022. Subsequently, after proposed permitting schedule deadlines were missed in July 2020, the Department requested a revised permitting and construction schedule. Allen Harim submitted the revised schedule on August 14, 2020, which indicated that stream discharge will not cease until January of 2023. Most recently, Allen Harim submitted a Wastewater Management Plan for the Millsboro facility on January 13, 2021, which proposes wastewater treatment plant upgrades and onsite wastewater disposal via Rapid Infiltration Basins (RIBs). (Appendix I) However, there are potential environmental and legal concerns associated with wastewater disposal via RIBs at the Millsboro facility that require further assessment by the Department. In addition, Allen Harim's January 13, 2021 plan did not propose an interim solution to expedite the termination of stream discharge until Allen Harim's a long-term wastewater treatment and disposal solution has been implemented.

Allen Harim Harbeson Facility – On-Site Wastewater Treatment Operations Permit

Allen Harim submitted an application to the Department to obtain an Operations Permit for On-Site Wastewater Treatment and Disposal for the onsite treatment of process wastewater at Allen Harim's Harbeson poultry processing facility, and the disposal of treated effluent at Artesian's Northern Sussex Regional Water Recharge Facility (ANSRWRF). Once the Operations Permit is issued, Allen Harim will terminate stream discharge of treated effluent. As a component of the permit application, Allen Harim submitted a work plan to address cleanout of the old anaerobic lagoon at the facility and a plan for the diversion of offspec effluent until that cleanout is complete. Unanticipated complications in securing a sludge disposal location for the sludge from the old anaerobic lagoon, and the unexpected need to re-line the stormwater pond for offspec diversion delayed both Operations Permit issuance and initiation of lagoon cleanout activities from the original proposed schedule. Although Allen Harim began lagoon cleanout activities in June of 2020, progress on the cleanout was halted in August due to complications as a result of the pandemic. On August 21, 2020, Allen Harim verbally requested to change their cleanout strategy from live load and hauling to excavation into geotubes for dewatering in a temporary sludge storage lagoon. This plan would still result in lagoon cleanout, lining and "ready for service completion" within six months of receipt of a permit for the sludge storage lagoon. However, Allen Harim was notified in March 2021 that obtaining conditional use approval from Sussex County to build the temporary sludge storage facility would result in a six-month delay in the lagoon cleanout project. To avoid this prolonged delay, Allen Harim has decided to abandon the pursuit of temporary sludge storage permitting efforts and will instead proceed with lagoon cleanout efforts involving excavation, dewatering via centrifuge, and subsequent proper offsite disposal at a facility permitted to receive the material.

In addition, up until March of 2020, wastewater production had increased at the Allen Harim Harbeson facility since 2017 resulting in concerns about Allen Harim's ability to meet the flow limitations of 1.5 MGD monthly average and 2 MGD max in the proposed Operations Permit when poultry production levels start to increase again. Allen Harim had concerns that flow violations would occur during rain events due to stormwater connections to the wastewater system. Initially, Allen Harim was requesting to disconnect some stormwater drainage areas that are no longer part of the active poultry production area of the plant from the wastewater treatment system in order to prevent flow violations. However, on June 11, 2020 Allen Harim submitted correspondence to the Department reversing that request and instead proposing water re-use initiatives and poultry production decreases to meet the flow limits in the draft Operations Permit. More recently, Allen Harim's January 13, 2021 Wastewater Management Plan submittal listed several assessments that Allen Harim will perform to identify flow reduction options for the Harbeson facility, but did not include timelines for implementation of identified flow reduction options. Allen Harim's January 13, 2021 Wastewater Management Plan – Millsboro and Harbeson Locations and the Department's response are included in Appendix I.

Allen Harim Harbeson Facility – NPDES Permit Violations

DNREC is responsible for the administration of the NPDES program in accordance with 33 U.S.C. §§1251 *et seq.* and 7 Del. C. Chapter 60. Pursuant to this authority, DNREC issued NPDES Permit DE0000299 (“NPDES Permit”), effective February 1, 2016, to Allen Harim Foods, LLC, which regulates the Wastewater Treatment Plant (“WWTP”), and authorizes the discharge of treated effluent and stormwater from the Harbeson Facility through Outfalls identified as 001, 002, 003, and 004, to the Beaver Dam Creek, and ultimately the Broadkill River.

In accordance with Part I.B.3. of the NPDES Permit, Allen Harim was subject to more stringent effluent limitations beginning August 1, 2019. However, Allen Harim has contracted with Artesian Water Company (“Artesian”) to provide spray irrigation facilities and services for their treated wastewater disposal, which will eliminate stream discharge of treated wastewater effluent and, accordingly, the need for a NPDES permit for treated wastewater discharge. Both Allen Harim and Artesian are required to apply for and receive operations permits under 7 Del. Admin. C. § 7101 – *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems* (“Regulations”) prior to beginning the spray irrigation activities. Due to the delays in obtaining the necessary Operation Permit, Allen Harim was not be able to comply with the more stringent effluent limitation for Total Nitrogen Loading that became effective as of August 1, 2019.

Additionally, between October 2019 and February 2021, Allen Harim had fifteen (15) effluent violations for exceedances of ammonia effluent limitations. Several other effluent violations of other permit limitations have also occurred during that timeframe. In addition, Allen Harim had multiple “non-reporting” violations in 2018 due to sample collection for pH and TRC occurring at an improper sampling location, which invalidated the data. All effluent violations are listed in Appendix II and attached hereto.

On January 23, 2020, the Surface Water Discharges Section (SWDS), Compliance and Enforcement Branch performed a Reconnaissance Inspection at the Allen Harim Harbeson Facility. During the inspection numerous stormwater violations were noted, and staff were informed about instances of discharge to ground surface of partially treated effluent from the DAF splitter box that had not been reported in accordance with NPDES permit requirements. These issues are documented in SWDS’s March 5, 2020 Manager’s Deficiency Warning Letter, attached hereto as Appendix III. Allen Harim submitted a response to the Department’s March 5, 2020 Manager’s Deficiency Warning letter on May 29, 2020. The Department reviewed Allen Harim’s May 29, 2020 response and found it was incomplete. On August 21, 2020, the Department issued correspondence requiring further corrective actions and/or documentation of actions performed. Allen Harim has since performed the required corrective actions; however, some follow-up and status report-outs on progress will be required.

In addition to the DAF splitter box overflows, Allen Harim has experienced five (5) additional minor spill events from May 2020 through February 2021 resulting from pump and electrical issues. This includes a RAS pump failure on March 1, 2021 that resulted in the discharge of 500 gallons of activated sludge to the adjacent stream. These spill events are also documented in Appendix II and attached hereto.

SECTION II: CORRECTIVE ACTIONS & COMPLIANCE SCHEDULE

Both DNREC and Allen Harim agree that proactively addressing this noncompliance to avoid protracted formal enforcement actions is in the best interest of the Parties and can be effectively accomplished via this Order outlining the necessary procedures and timelines for bringing Allen Harim into compliance. Allen Harim agrees to address these violations and complaints as provided herein. Failure to comply with any of the requirements detailed below within the specified timeframes will result in the imposition of stipulated penalties as detailed in Section III.B. of this Order. The stipulated penalties provided for in this Order shall be in addition to any other rights, remedies, or sanctions available to DNREC for addressing Allen Harim's violation of this Order or applicable law.

NOW THEREFORE, Allen Harim and DNREC jointly execute this Order to effectuate the purposes and actions delineated herein, and pursuant to 7 *Del. C.* §6005(b)(2), it is Ordered and Agreed as follows:

A. Allen Harim Millsboro Facility – Millsboro, DE

1. As an interim measure, Allen Harim will continue to haul up to 40,000 gallons per day (gpd) of process wastewater from the Millsboro facility to the Harbeson facility for treatment and disposal. Daily and total volumes hauled from Millsboro to Harbeson shall be submitted to the Department with monthly effluent monitoring report submittals.
 - a. Allen Harim shall not haul more than 40,000 gpd from Millsboro to Harbeson. If Allen Harim intends to increase the volume of process wastewater hauled from the Millsboro facility, Allen Harim must apply for a permit modification from the Department, upon which the Department will make a permit decision based on governing law.

- b. Allen Harim shall investigate potential wastewater reduction/water conservation initiatives at the Millsboro facility and submit a report of findings to the Department within 30 days of execution of this Order. If Allen Harim applies for a permit modification for the Harbeson Operations Permit to increase the volume of process wastewater accepted for disposal from the Millsboro facility, the Department will consider Allen Harim's efforts to implement any wastewater reduction measures in Millsboro as part of the permit modification request record.
 - c. Within one year of execution of this Order, Allen Harim shall submit for Department consideration a proposal for a permanent wastewater solution for the Millsboro facility.
 - d. Allen Harim may temporarily suspend any efforts associated with the permit application for an onsite wastewater treatment and disposal facility at the Millsboro facility while Allen Harim evaluates permanent wastewater disposal alternatives within the timeframes provided in this Order. The Department reserves the right to require Allen Harim to apply for an alternative means of treating and disposing of its process wastewater if Allen Harim fails to comply with the trucking and flow provisions of this Order and the Harbeson Operations Permit.
 - e. Once the Department agrees in concept to Allen Harim's long-term wastewater treatment and disposal solution for the Millsboro facility, Allen Harim expressly agrees to expedite its completion and submission to DNREC of all applications for required permits. Allen Harim must develop all permit applications in accordance with applicable law and submit the permit applications to the Department for consideration.
2. Allen Harim shall establish an interim solution for disposal of sanitary waste from the Millsboro facility within 60 days of execution of this Order and cease stream discharge of treated sanitary effluent within 90 days of execution of this Order. A long-term solution for sanitary disposal at the Millsboro facility will be established in conjunction with the long-term wastewater solution for process wastewater.
3. In addition, Allen Harim specifically agrees that the NPDES Permit will not be extended or renewed for the purpose of treated wastewater effluent disposal. Nothing in this Order shall restrict or limit DNREC's rights to commence any administrative, civil and/or criminal remedies pursuant to 7 Del. C. § 6005 in response to any unauthorized discharge.

4. Allen Harim shall identify opportunities for enhanced stormwater management at the facility within 90 days of execution of this Order and incorporate applicable BMPs into the facility Stormwater Plan. The updated Stormwater Plan shall be submitted for Department for review within 120 days of execution of this Order.

B. Allen Harim Harbeson Facility – Harbeson, DE

1. Allen Harim shall comply with all effluent limitations and monitoring requirements as specified on Page 4 of the NPDES Permit for treated wastewater discharge until wastewater discharge to stream is terminated.
2. Allen Harim shall cooperate with DNREC to obtain the Operations Permit necessary to begin sending treated wastewater effluent to the Artesian Northern Sussex Regional Water Recharge Facility (“ANSRWRF”). Allen Harim shall cease all stream discharge of treated wastewater effluent within sixty (60) days of obtaining an Operations Permit. Allen Harim agrees to comply with the deadline for ceasing stream discharge as outlined in this paragraph. In addition, Allen Harim shall continue to comply with all stormwater provision of the NPDES Permit after Operations Permit issuance until a NPDES permit for the discharge of stormwater only is obtained.
3. It is contemplated by this Order that stream discharge will cease as soon as a new permitted disposal option is in place, as detailed in paragraph 2 above. In addition, Allen Harim specifically agrees that the NPDES Permit will not be extended or renewed for the purpose of treated wastewater effluent disposal. Nothing in this Order shall restrict or limit DNREC’s rights to obtain penalties or injunctive relief under any applicable law, regulation, or permit.
4. Within thirty (30) days of ceasing stream discharge, Allen Harim shall permanently seal Outfall 001. Allen Harim shall provide DNREC written notification of the outfall closure schedule at least five (5) days in advance of outfall closure activities. Written notification shall be provided to Nicole Smith in DNREC’s Surface Water Discharges Section.
5. To address recent spill/pump failure concerns as documented in Appendix II, within sixty (60) days of execution of this Order, Allen Harim shall provide DNREC with an updated Standard Operating Procedure (SOP) for facility-wide pump inspection, maintenance, and upgrades and a schedule for SOP implementation to mitigate the potential for spills due to continued pump failures.

6. Allen Harim submitted its “Old Anaerobic Lagoon Cleanout Work Plan” on June 18, 2019 detailing the method and schedule for sludge removal from the old anaerobic lagoon, lining of the lagoon, and monitoring and diversion sequencing prior to and during lagoon cleanout. On July 17, 2019, DNREC conditionally approved this work plan contingent on incorporation and completion of several items. Allen Harim expressly agrees to adhere to the work plan, including the contingencies included in DNREC’s July 17, 2019 letter, as amended via submission and DNREC approval of Allen Harim’s updated plan, including but not limited to the following:
 - a. Allen Harim has indicated that cleanout activities of the old anaerobic lagoon began in June 2020, but subsequently ceased in August 2020 due to complications resulting from the pandemic. Allen Harim shall proceed with lagoon cleanout efforts involving excavation, dewatering via centrifuge, and subsequent proper offsite disposal at a facility permitted to receive the material. Allen Harim commits to the following:
 - i. Allen Harim shall submit an amended old anaerobic lagoon cleanout plan detailing Allen Harim’s revised schedule and plan for lagoon cleanout and sludge disposal to the Department within 15 days of execution of this agreement.
 - ii. Allen Harim shall recommence lagoon cleanout activities within sixty (60) days of execution of this agreement.
 - iii. Allen Harim shall continue lagoon cleanout activities until cleanout is complete. Allen Harim shall maintain records documenting the volume of sludge removed from the old anaerobic lagoon and disposal location and submit this information to the Department monthly until the lagoon cleanout is complete.
 - b. Allen Harim shall make the old anaerobic lagoon ready for service as a diversion lagoon for the facility, including cleanout completion and synthetic lining, no later than 8 months from the effective date of the proposed Operations Permit for the Harbeson onsite wastewater treatment.

7. To further address concerns surrounding the Department's March 5, 2020 Manager's Deficiency Warning letter, Allen Harim shall:
 - a. Restabilize areas with observed erosion concerns by May 30, 2021.
 - b. Maintain a Stormwater Catch Basin Cleanout contract for (at a minimum) quarterly catch basin and trench drain cleaning. Cleanout activities must commence in March 2021.
 - c. Monitor stormwater Outfall 004 quarterly for one year beginning January 2021 for the same parameters as Outfalls 002 and 003 as listed in NPDES Permit DE0000299 quarterly. After one year of monitoring, Allen Harim can request a reduction in sample frequency and/or parameters if warranted by the data results.
 - d. Submit a revised Stormwater Plan that incorporates 6.a through 6.c above, as well as, documentation of BMPs being implemented in the surplus material laydown area as documented in notes attached to Michael Sause's December 9, 2020 email (Appendix IV).
8. Allen Harim has asserted that it will comply with flow limitations in the On-Site Wastewater Treatment Operations Permit (when issued) through water reuse, recycling and production management measures (see Appendix I). Please note, failure to comply with flow limitation as authorized via State Permit No. 597261-01 (once issued) will constitute a permit violation, as well as, a violation of this Order as stated above.
 - a. To mitigate the likelihood of flow violations, Allen Harim shall implement flow reduction activities to achieve flow reduction at the Harbeson plant prior to increasing poultry production to 70% of plant processing capacity. Flow reduction activities include but are not limited to water conservation, water reuse and/or implementation of stormwater enhancements that allow stormwater discharge to stream without NPDES discharge violations during rain events. Implementation of flow reduction measures shall occur prior to an increase in the poultry production rate greater than or equal to 70% and shall be documented as follows:
 - i. At least 60 days prior to increasing poultry production greater than or equal to 70%, Allen Harim shall submit a Flow Reduction Implementation Report to the Department that details all flow reduction activities that have been implemented, the volume of flow reduction that has been achieved, data analysis showing compliance with flow limitation can be maintained at increased poultry production levels despite rain events, and a schedule and progress report for any future flow reduction actions that are planned.

- b. In the event that Allen Harim exceeds its flow limitations for two consecutive days or more, Allen Harim shall mitigate the situation by temporarily decreasing poultry production until the flow complies with the permit conditions.
- c. Allen Harim shall evaluate opportunities for flow reduction at the Harbeson facility and implement flow reduction measures by taking actions that include, but are not limited to:
 - i. Complete a study to identify enhancements to successfully reduce stormwater pollutant loads and report findings to the Department within 60 days of execution of this Order.
 - 1. Allen Harim shall implement identified stormwater Best Management Practices (BMPs) to reduce stormwater pollutant loads by September 30, 2021.
 - ii. Perform an internal water conservation analysis to determine potential opportunities to reduce water consumption and report findings to the Department within 60 days of execution of this Order.
 - iii. Allen Harim shall complete the "Less Than Daily" (LTD) sanitation of the chiller project by September 1, 2021 for water savings of up to 50,000 gallons per day.
 - iv. Allen Harim shall complete the Inside/Outside Bird Washers (IOBW) project by August 1, 2021 for a water savings of up to 150,000 gallons of water per day.
 - v. Allen Harim shall complete the Offal Water Reuse project by May 1, 2021 for a water savings of up to 100,000 gallons per day.

III. ADMINISTRATIVE AND STIPULATED PENALTIES

A. Administrative Penalties

1. Allen Harim agrees to pay an administrative penalty in the amount of **\$150,340**. The penalty is assessed for violation of NPDES Permit DE0000299 including: (1) multiple “non-reporting” violations in 2018 and 2020, (2) effluent violations from October 2019 through February 2021 (Appendix II), and (3) violations identified during the Department’s January 23, 2020 Recon Inspection as documented in the March 2, 2020 Manager’s Deficiency Warning Letter (Appendix III).
 - a. Allen Harim shall pay the assessed administrative penalty within 7 days of this Agreement effective date by check made payable to “the State of Delaware” in the amount of **\$150,340**. The check shall be mailed to: Devera B. Scott, Deputy Attorney General, Delaware Department of Justice, 102 W. Water Street, Dover, DE 19904.

B. Stipulated Penalties

1. Allen Harim expressly agrees that failure to comply with any of the above obligations and deadlines shall lead to the imposition of the following monetary administrative penalties (“Stipulated Penalties”) in accordance with the following provisions.
 - a. Allen Harim agrees to pay a Stipulated Penalty of \$1,000 per day per instance of noncompliance with any provision of this Order.
 - b. DNREC shall provide Allen Harim written notice within fifteen (15) days of each instance of noncompliance.
 - c. If Allen Harim remains noncompliant with this Order for thirty (30) days after receiving DNREC’s written notice as addressed in paragraph 1(b), then as calculated by the sum-total of instances of noncompliance assessed penalties, Allen Harim agrees to pay a Stipulated Penalty of \$5,000 per day for each additional instance of noncompliance.
 - d. If Allen Harim remains noncompliant with this Order for ninety (90) days after receiving DNREC’s written notice as addressed in paragraph 1(b), then as calculated by the sum-total of instances of noncompliance assessed penalties, Allen Harim agrees to pay a Stipulated Penalty of \$10,000 per day for each additional instance of noncompliance.

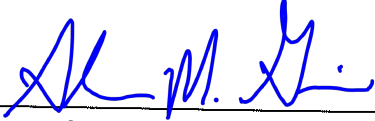
- e. Payment of any Stipulated Penalties shall be remitted within thirty (30) days of said notice by check payable to "the State of Delaware" and mailed to: Devera B. Scott, Deputy Attorney General, Delaware Department of Justice, 102 W. Water Street, Dover, DE 19904.
- f. Allen Harim may request a waiver of any Stipulated Penalty. At its discretion, DNREC may waive Stipulated Penalties for Allen Harim's noncompliance for reasons DNREC deems to be outside Allen Harim's control, including but not limited to acts of God or third-party disruptions.

IV. MISCELANEOUS PROVISION

- 1. Binding on Successors: It is the intention of the parties that this Order shall be binding upon and enforceable against the Parties and their successors, heirs, executors, administrators and assigns.
- 2. Severability: In the event that any provision (section, paragraph, or portions thereof) of this Order shall be held invalid or unenforceable for any reason, it shall not in any way invalidate, affect, or impair the remaining provision(s) (sections, paragraphs, or portions thereof) of this Order, and to this end, the provisions of this Order are hereby declared to be severable.
- 3. Construction: The agreement shall be construed according to the intent of the parties to resolve the pending violations and to prevent future violations and harm to the environment. No provision(s) or paragraph(s) of this Order shall be construed based on authorship.
- 4. Compliance with Law: Nothing in this Order shall relieve Allen Harim of its obligation to comply with all applicable federal, state or local laws or regulations.
- 5. Good Faith: The Parties agree to act in good faith and to cooperate fully with each other in carrying out the intent of this Order, provided that nothing in this Order shall be construed to restrict DNREC's regulatory and permitting judgment and discretion, and nothing in this Order shall be construed to require DNREC to pay or appropriate any monies or expend any funds. Nothing in this Order, however, prevents Allen Harim from receiving monies or funds otherwise appropriated or granted by DNREC.
- 6. Entire Understanding: This Order constitutes the entire agreement and settlement between the Parties. The Parties acknowledge that this Order may not be amended except in writing executed by both Parties.

7. No Third Party Rights: The Parties to this Order expressly intend that this Order shall create no right(s) in any person or entity not a party to this Order.
8. This Order becomes effective on the date of execution by the Secretary of DNREC.

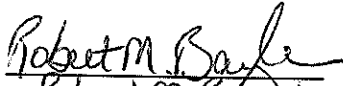
Date: 4/27/21


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

Agreed and Accepted:

Date: 4/21/2021

Allen Harim Foods, LLC

By: 
Name: Robert M. Baugher
Title: Chief Executive Officer



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January 13, 2021

Secretary Shawn M. Garvin
Delaware Department of Natural Resources and Env. Control
Office of the Secretary
89 Kings Highway
Dover, Delaware 19901

**RE: ALLEN HARIM Foods, LLC.
Wastewater Management Plan-Millsboro and Harbeson Locations**

Dear Secretary Garvin,

It was a pleasure speaking with you and your staff on January 6, 2021 to discuss Allen Harim's strategy for wastewater management at our Millsboro and Harbeson locations. I appreciate your input and patience as we develop a definitive plan to address wastewater permitting concerns at both locations.

Enclosed, please find a detailed Wastewater Management Plan, identifying a timeline of action items necessary to obtain appropriate wastewater treatment permits. You will notice Allen Harim Foods has decided to move forward with design, construction and use of rapid infiltration basins (RIBs) at our Millsboro location as this is the most economic and technically feasible option for wastewater management. Wastewater treatment upgrades at the Millsboro location will be performed to result in the most stringent treatment level of 5 mg/L total nitrogen in effluent. Please let me know within the next 30 days if the use of RIBs is prohibited by DNREC/EPA as a magnitude of work, involving several outside organizations, is required to complete this task. Additionally, please realize progress or delays at the Millsboro location can impact the progress or cause delays at the Harbeson location. Therefore, I kindly request flexibility with regards to the timeframe for issuing the Harbeson Operations Permit.

Please know Allen Harim Foods is committed to complying with timeframes identified within the attached Wastewater Management Plan and will provide monthly status updates detailing progress as well as address any questions or permitting concerns moving forward.

Should you have any questions, please feel free to contact me at (302) 628.6080.

Regards,
Mickey Baugher
Mickey Baugher
Chief Executive Officer
Allen Harim Foods, LLC.

cc: Jenn Roushey, DNREC
Brian Hildreth, Allen Harim
Michael Sause, Allen Harim



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ALLEN HARIM FOODS, LLC. WASTEWATER MANAGEMENT PLAN

Millsboro Location: Allen Harim will upgrade its existing wastewater treatment system and install Rapid Infiltration Basins (RIBs) for onsite wastewater management and disposal. Allen Harim will seek to obtain a General Industrial Stormwater Permit, authorizing discharge of stormwater.

1. RIB Design, Permitting, and Installation: Michael Sause reached out to Duffield Associates and Vernon Rowe to determine task items to address wastewater management. A detailed Timeline has been received and is attached for your review.
2. Wastewater Treatment Plant Upgrades: Allen Harim has elected to upgrade its wastewater treatment system to treat effluent to the more stringent nitrogen standard of 5 mg/l. Please confirm a SWAR is not required based on this decision.
3. Wastewater Hauling:
 - Current hauling permit caps permissible volume to 40,000 gpd. Allen Harim will not request a change to 60,000 gpd in permissible limits. In an effort to ensure the volume limit is not exceeded, Allen Harim has met with its waste hauler (Denali) and has limited the number of trucks hauling from the site to 6 trucks per day (equivalent to 36,000 gallons). Effective Monday, January 11, 2021, all tanker truckers will be required to weigh their load to ensure volumes are not exceeded. Rather than haul a partial load, would DNREC be willing to allow Allen Harim to haul 7 full trucks per day, equating to 42,000 gallons?
 - Allen Harim will begin hauling wastewater 7 days per week, effective January 10, 2021.
 - An internal procedure has been developed to ensure the Frac tank is emptied by Sunday morning, effective January 10, 2021.
 - Allen Harim will utilize 5 existing fiberglass storage tanks (equivalent to 38,500 gallons of storage volume) to store wastewater in the event daily generated volumes are in excess of the authorized hauling volume.
4. Wastewater Reduction Opportunities
 - Facility personnel will develop a Water Team to identify conservation measures that can be employed in an effort to reduce the volume of wastewater generated. The team will be developed by January 31, 2021. An investigation of current practices and identification of potential water conservation initiatives will be completed by February 15, 2021.



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- Appropriate Facility personnel will compare current production data and water usage to determine trends and opportunities for reduction. This task will be completed by February 15, 2021.
5. Stormwater Management
- The Facility will seek coverage under the General Industrial Stormwater Permit. An NOI form will be submitted as the wastewater permitting progresses and individual NPDES permit is eliminated.
 - Amber Moore, Michael Sausé and Bob Lynch will evaluate site conditions to identify opportunities for reducing treated stormwater volumes as well as identify recommendations for enhanced stormwater management. This task will be completed by April 15, 2021.

Harbeson: Harbeson will obtain a permanent Sludge Storage Permit to allow for lagoon cleanout. Once the lagoon is cleaned out the Facility will seek issuance of its Operations Permit. Although, permit issuance may be impacted by hauling activities performed at the Millsboro location. Allen Harim will also seek to authorize the discharge of stormwater under an individual NPDES Permit.

1. Sludge Storage Permit:
 - An application for a permanent sludge storage permit will be submitted by 1/22/21.
 - Railroad entry permit was obtained on 1/8/21.
 - The lagoon cleanout will occur within 6 months of Sludge Storage Permit issuance.
2. Stormwater Management:
 - NPDES Permit: A renewal application package requesting authorization to discharge stormwater from outfalls 002, 003 and 004 was submitted on October 31, 2020. The permit will not be issued until the Operations Permit is issued. Until that time, the current NPDES Permit is administratively extended.
 - Erosion Control: Allen Harim restabilized identified areas of concern in the Spring.
 - Stormwater Catch Basin Cleanout Contract secured with CES on December 30, 2020 requiring quarterly catch basin and trench drain cleanout. The first cleanout is scheduled for March 2021.



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- Stormwater Enhancements: Allen Harim has obtained Proposals from three (3) engineering firms to perform a feasibility study to determine stormwater enhancements that can be employed at each outfall location. Contracts will be awarded by January 31, 2021 to perform this study. The study will be completed by March 30, 2021. Based on the results, Allen Harim will identify if any of the identified enhancements will successfully reduce stormwater pollutant loads to potential permitted limitations and allow for discharge without treatment.
3. Operations Permit:
- Stormwater reduction opportunities will be evaluated through the feasibility study to identify opportunities to potentially eliminate the treatment of stormwater and enable the facility to secure additional bandwidth for wastewater treatment.
 - Water Reduction and Reuse Opportunities: Current and projected wastewater treatment volumes are such that there is not an immediate need for a water reuse system. We are actively engaged in determining the best method to do so and will inform DNREC when we identify this method. In the interim, Allen Harim is committed to performing an internal water conservation analysis to determine potential opportunities to reduce water consumption. This task will be completed by March 30, 2021. Allen Harim has also requested the USDA approve a chiller operating program to be completed in 2021 and 2022. If approved, the water used in the chiller will only have to be changed once per week saving 400,000 gallons of water per week.

PROJECT PLANNING FLOW CHART
PERMITTING, DESIGN, CONSTRUCTION, AND START-UP OF WASTEWATER SYSTEM
MILLSBORO, DE (PINNACLE FACILITY)
ALLEN-HARIM
JAN 12, 2021

Work Task	Allen-Harim	Duffield	Rowe	DNREC	Begin	End	Comments
Letter of Intent to DNREC	x	x			Completed	Completed	
Field Reconnaissance – Soils and Hydrogeology		x			Completed	Completed	
Meeting with DNREC to Discuss Recon Work and Proposed Work Plan	x	x	x	x	Completed	Completed	
Submittal of Work Plan for SIR and HSR Completion		x			Completed	Completed	
Topographic survey					Pending	Pending	Duffield has obtained proposal for survey work for Allen Harm consideration
DNREC Review Proposed Work Plan of Soil Investigation Report (SIR); Hydrogeologic Suitability Report (HSR)				x	Completed	Completed	
Soil Feasibility Study		x			Completed	Completed	
Soils Investigation Report (SIR)		x			Underway	3/31/2021	
Seasonal water level monitoring	x				Completed	Completed	
Hydrogeologic Suitability Report (HSR)		x			Underway	3/31/2021	
Submittal of SIR and HSR Reports to DNREC		x				5/31/2021	
Planning Meeting with DNREC and Consultants (Discussion of Scope of Project – Wastewater Treatment and Land Disposal System)	x	x	x	x	Completed	Completed	
Preliminary RIB Design		x			Completed	Completed	
DNREC Review of SIR and HSR Reports				x	6/1/2021	9/1/2021	90 days assumed
Submittal of Any Additional SIR and/or HSR, data, if required to DNREC		x			9/1/2021	11/1/2021	60 days assumed
Final DNREC Review and Concurrence				x	12/1/2021	12/1/2021	This schedule assumes DNREC accepts all data, reports, and proposed system upgrades without significant comment. If DNREC requests significant changes schedule will change.
Final RIB Design		x			9/1/2021	12/1/2021	Refinement of RIB design based on the SIR/ HSR work

Work Task	Allen-Harim	Duffield	Rowe	DNREC	Begin	End	Comments
Construction Permit Application Submittal (including Construction Plans and Specifications)	x	x	x		Underway	12/1/2021	
DNREC Permit Application, Review, Public Notice/Participation, Approval				x	12/1/2021	5/1/2022	6 months assumed for final DNREC permit review and public hearing process
Construction	x	x	x		5/1/2022	1/1/2023	8 month construction period assumed
System Installation, Inspection, Sampling, etc.	x	x	x		11/1/2022	1/1/2023	2 months assumed overlapped with construction
Submittal of Operating Permit Application	x	x	x		1/1/2023	1/1/2023	Operating permit application includes as-built drawings. Drawings will need to be revised where necessary as construction proceeds to minimize time for preparation of the operating permit application.
DNREC Operating Permit Application Review, Public Notice/Participation, Approval				x	1/1/2023	4/1/2023	It is possible for DNREC to review the operating permit application, go to public notice, and issue a construction permit in 90 days. If a public hearing is requested and granted the schedule may be extended.
System Use	x				4/1/2023	4/1/2023	Meeting the projected start-up date is contingent upon the time required by DNREC in review, public notice/participation, and approval of the Construction Permit Application and Operating Permit Application. Ninety days has been allocated for each of this work tasks.

Allen Harim Harbeson Effluent Violations 2018 – 2021 - NPDES Permit DE 0000299

Parameter	Permit Limit	Date	Concentration
Total Nitrogen Max Conc	Limit 2/1/16 - 7/31/19 34.4 mg/L	1/7/2020	34.7 mg/L
Ammonia Average Conc	0.62 mg/L	Nov 2019 Dec 2019	2.22 mg/L <1.58 mg/L
Ammonia Max Conc	0.93 mg/L	10/22/2019 11/12/2019 11/20/2019 12/4/2019 12/29/2020 2/23/2021	1.54 mg/L 4.26 mg/L 4.40 mg/L 7.26 mg/L 1.73 mg/L 1.08 mg/L
Ammonia Average Load	10.4 lbs/day	Nov 2019 Dec 2019	28.8 lbs/day <21.7 lbs/day
Ammonia Max Load	15.6 lbs/day	10/22/2019 11/12/2019 11/20/2019 12/4/2019 12/29/2020	20.6 lbs/day 49.4 lbs/day 62.7 lbs/day 100.5 lbs/day 22.2 lbs/day
Enterococcus Max Conc	113 col/100ml	12/4/2019 2/19/2020 6/3/2020 2/10/2021	290 col/100ml 517.2 col/100ml 140.3 col/100ml 130.8 col/100ml
pH	Min 6 S.U. / Max 9 S.U.	Jun 2018 July 2018 May 2020 Sept 2020	10 8 1 1 # of missed samples
Total Residual Chlorine	ND mg/L	Jun 2018 July 2018 May 2020 Sept 2020	10 8 1 1 # of missed samples
Total Residual Chlorine	ND mg/L	4/19/2018	0.3 mg/L
Total Suspended Solids Max Conc	13.7 mg/L	2/23/2021	14.8 mg/L

Pump Failure/Spill Events

- May 18, 2020 – CMAS splashing out of tank
 - Unknown amt of gallons – nothing to stream
 - High level in CMAS tank
- June 22, 2020 – Raw Water Pit Overflow
 - 500-1000 gallons of sanitation water (NOT SANITARY WASTE)
 - Result of power outage
- December 11, 2020 – Sanitary Pump Station Overflow
 - 25-30 gallons
 - Result of 2nd sanitary pump not operating properly in automatic mode
- December 29, 2020 – CMAS splashing Event
 - 1000 gallons
 - Potential electrical issue
- February 2, 2021 – CMAS 1 Mechanical Seal Leakage
 - 500 gallons to the ground
 - Failed seal on the pump
- March 1, 2021 -Clarifier Overflow
 - 500 gallons activated sludge to the stream
 - RAS pump not working properly, sludge blanket in clarifier too high, caused bulking of solids



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

**SURFACE WATER
DISCHARGES**

DIVISION OF WATER
RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

PHONE
(302) 739-9946

CERTIFIED MAIL 7014 0150 0000 7843 4949
RETURN RECEIPT REQUESTED

March 5, 2020

Allen Harim Foods, LLC
Mr. Michael Sausé – Environmental Manager
P.O. Box 277
18752 Harbeson Road
Harbeson, DE 19951

Re: ***Manager's Deficiency Warning Letter***
Reconnaissance Inspection – January 23, 2020
NPDES Permit No. DE0000299

Dear Mr. Sausé,

The State of Delaware, Surface Water Discharges Section, Compliance & Enforcement Branch, performed a Reconnaissance Inspection at the Allen Harim Harbeson facility on January 23, 2020. The inspection team of S. Quinn McWatters, Jena Saxton, and Lydia Smith arrived at the facility at approximately 1035 hrs., signed in with security, and met with Michael Sausé (Environmental Manager).

During the inspection, the following deficiencies or violations were found:

1. The inspection began at Outfall 002 located at the west end of the facility. There was some erosion and standing water noted at this outfall. On the west side of the building there is a pit and sump that pumps collected stormwater and any production run-off back to wastewater treatment. There was standing water near the outfall area that Mr. Sausé stated was because of the old anaerobic lagoon overflowing and leaking water. On prior inspections, a berm adjoined the corner of the building to direct flow to the sump. However, the berm no longer exists.
2. It was observed that the secondary containment pad located at the south of the property, next to the clarifiers, is compromised. The secondary containment has a concrete outlet that is not capped, nor did there appear there is a mechanism to cap it. The concrete of the entire structure was also lacking in integrity.
3. There is a metal pipe that runs through the west side of the Dissolved Air Flotation (DAF) Building and appears to go into the ground. This pipe had water spraying out of the side of it and ponding nearby.
4. A corrugated hose directs filtrate water (water from the biosolids filter press) outside onto the concrete pad under the biosolids cake truck and trailer. This was also observed during the May 2019 inspection and Jena Saxton was told it was a temporary diversion because during maintenance activities something became lodged in the drainage pipe. The drain in this concrete pad goes back to wastewater.

5. To the north of the DAF building, the surrounding area of the lift station and splitter box was not stabilized, and there was an eroded path that lead from the lift station and splitter box area to the concrete pad under the biosolids cake truck and trailer. Mr. Sausé informed the inspection team that the splitter box had overflowed. There was evidence of the overflow on the grate covering the structure as well. These overflow incidents have not been reported to the Department as required. Mr. Sausé also informed the inspection team that automatic controls were recently installed on the pit inside the DAF building (this pit receives flow from the splitter box and then flows to the EQ tank) which is believed to prevent overflows from happening in the future. **You must report any future spills of process wastewater to the Department as required (verbal and written notification as required by the NPDES permit).**
6. There is an old anaerobic lagoon on-site that is currently out of service but has not been cleaned out. The inspection team observed multiple spots along the lagoon's concrete edge that are cracked and leaking water. The lagoon overflows as well. Mr. Sausé stated the leaking lagoon is the reason for the standing water observed near Outfall 002.
7. The stormwater pond located to the west of the live hold shed drains to Outfall 004. Water was not overtopping the weir of the outfall, however there was water observed exiting the pond from the underdrain.
8. The facility has started utilizing an area to the east of the live hold shed for various equipment (presumably removed from the processing facility) storage. This area was previously identified in an inspection as a potential outfall.
9. There are catch basins that drain to stormwater pond (Outfall 004) located in the impervious surface of the live hold storage area (not under the live hold shed). This has been an area of concern during the past few inspections as many of these catch basins are full of debris, feathers, etc. Additionally, during the inspection the inspection team observed multiple full live chicken trucks parked outside of the live hold shed. During a rain event, the slope of this area would direct the rainwater run-off from this area to a network of catch basins that ultimately flow to the stormwater pond on-site which discharges to Outfall 004. Delaware Administrative Code 7201 "Regulations Governing Control of Water Pollution" §9.1.5.7.3.6 Best Management Practices, requires that BMPs must be established to prevent or reduce the potential discharge of pollutants in storm water.

The inspection team departed the facility after signing out at security at approximately 1140 hours.

The above-mentioned violations are currently under management review and additional correspondence will follow. The subsequent item(s) require immediate attention and are to be completed **no later than thirty (30) days of receipt of this Manager's Deficiency Warning Letter** unless otherwise indicated.

1. Replace and properly stabilize the berm near Outfall 002 to ensure all water is captured and directed to the sump.
2. Secure secondary containment structure so that it can properly contain any spills.
3. Identify and repair the pipe noted in item #3 above and provide documentation to the Department.
4. Repair drainage pipe under the biosolids filter press to original function and submit documentation to the Department.
5. Provide documentation of the automatic control installation at the DAF pit, number of overflow events that have happened to date, estimated volume for each event, why the overflows have occurred and what corrective actions have been taken to address the overflows.
6. Begin semi-annual storm water sampling at outfall 004.

7. Establish and submit a plan to alleviate standing water and erosion concerns stemming from leaks and overflows from the old anaerobic lagoon. The plan must include timelines for the improvements.
8. Provide documentation of future plans for the area identified in item #8 above and/or pictures of the equipment removed from the site.
9. Establish and submit a plan depicting an enhanced housekeeping plan to correct the observed accumulation of debris, feathers, and litter addressed in item #9 above.
10. Please correct erosion at the following locations:
 - a. Repair the erosion leading to the concrete pad, and stabilize the soil surrounding the lift station and splitter box.
 - b. Stabilize minor erosion along stormwater pond bank
11. Provide copies of transportation records of incoming process wastewater from the Harim Millsboro deboning operation and the Dagsboro Hatchery from September 2019 to present. These records must include volume of wastewater transferred from each facility to the Allen Harim Harbeson facility.

You are required to submit your written response to the above and any supporting documents/photo documentation to me **within thirty (30) days of receipt of this letter**. If you have any questions or concerns, please contact me or Jena Saxton at 302-739-9946.

The Surface Water Discharges Section is attempting to gain voluntary compliance in accordance with 7 Del. C. § 6019. Failure to comply with the required corrective actions iterated in this inspection follow-up correspondence will result in formal enforcement action in accordance with 7 Del. C. § 6005. In addition, nothing in this warning letter shall be deemed to estop, or in any way preclude, any enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations. Please send your formal written response, including any corrective and/or preventative actions to the above noted deficiencies, by no later than the time limits set above after receiving this letter. The formal written response must be mailed to: Delaware – DNREC, Division of Water, Surface Water Discharges Section, Compliance & Enforcement Branch, 89 Kings Highway, Dover, DE 19901 or may be submitted electronically (within the allotted time frame) to me at Nicole.smith@delaware.gov.

Sincerely,



Nicole L. Smith
Program Manager
Compliance & Enforcement Branch
Surface Water Discharges Section
Division of Water
State of Delaware – DNREC

Update on Meeting Notes

Michael Sause <Michael.Sause@allenharimllc.com>

Wed 12/9/2020 12:49 PM

To: Roushey, Jennifer S. (DNREC) <Jennifer.Roushey@delaware.gov>

Cc: Mickey Baugher <Mickey.Baugher@allenharimllc.com>; Brian Hildreth <Brian.Hildreth@allenharimllc.com>; Tae Kim <Tae.Kim@allenharimllc.com>; amber.moore@rainwiseenviro.com <amber.moore@rainwiseenviro.com>; Gary Lasako <gary.lasako@choptankenv.com>

📎 1 attachments (22 KB)

Allen Harim Update on the 12-1-20 Meeting Notes.docx;

Good Afternoon Jenn,

Please find attached an update to your meeting notes from the 12-1-20 DNREC / Allen Harim meeting. Our comments are noted in **red**. If you should have any questions, please do not hesitate to contact me.

Regards,

Michael Sausé
Environmental Manager

Allen Harim Foods, LLC
29984 Pinnacle Way
P.O. Box 1380
Millsboro, DE 19966
Office: (302) 684-1640 ext. 2453
Cell: (302) 359-1975
Fax: (302) 684-8566
E-mail: Michael.sause@allenharimllc.com
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DNREC/Allen Harim Meeting, 12/1/2020

Attendees: Brian Hildreth, Michael Sause, Tae Kim, Amber Moore, Jennifer Roushey, John Rebar, Nicole Smith

Harbeson

Lagoon Items:

Allen Harim believes that the May 31, 2021 lagoon cleanout completion date is achievable; however, there are several upfront items (i.e. county approval, railroad crossing, temporary sludge storage permit application) that could cause delay. DNREC requested the following:

- Timeline for completion of “upfront items” including:
 - Railroad crossing permitting – Applications submitted 12-3-20.
 - County Zoning approval estimate – Letter submitted on 11-10-20. Response received on zoning verification on 12-8-20.
 - Sludge storage permit application submission – Estimated for submittal on 1-15-21 by Choptank Environmental, LLC.
 - E&S plan submission/permitting – In Progress – Synagro will submit by 12-16-20.
 - Submission of construction specifications for sludge storage lagoon and liner – Storage cell specifications are scheduled for completion and submittal by 12-16-20.
 - Submission of liner specifications for cleaned diversion lagoon – Synagro can not finalize the liner specifications until they begin cleaning the lagoon. Synagro will need additional details that will be identified after sludge removal has begun. If there are DNREC requirements for the liner specifications, please forward them asap to Michael Sausé.
 - Timeline for lagoon cleanout and lining completion – Completion by May 31, 2021.
- Copy of signed contract for lagoon cleanout services – submitted to Jenn Roushey on 12-8-20.

DNREC will adjust the May 31, 2021 deadline in the Order to read that the lagoon will be cleaned out, lined and ready for service withing _____ days of temporary sludge storage permit issuance. (or something along those lines). I will, however, also need to add additional compliance milestones based on the above timelines to provide assurance the “upfront” work does not lag.

Allen Harim is in agreement with the proposed language noted above.

I did not mention it on the call, but DNREC will need submission of a revised lagoon cleanout plan that details your path forward (i.e. temporary sludge storage in geotubes for dewatering, what happens to the leachate, how long you anticipate sludge will be stored, etc....). If this needs a little more time to pull together, I can add it to the Order with a thirty-day deadline.

Please add this to the order with a 30 day deadline.

NPDES Permit Expires January 31, 2021

DNREC confirmed that since the permit renewal application has been received in accordance with DNREC’s requirements, the permit will be administratively extended if permit issuance does not occur before the expiration date.

No comment for update.

WIAC Funding

Allen Harim indicated the release of the \$5 million in WIAC funds would go a long way in facilitating moving these projects forward. DNREC stated the funding release is a leadership level decision and was tied Operations Permit issuance for AH and Artesian. The Secretary's comfort level with rendering a decision on Operations Permit issuance is highly dependent on AH's commitment to resolving outstanding issues quickly.

Release of this money will be very helpful to Allen Harim in completing the project in a time frame that has been mutually agreed upon

Stormwater

AH has been doing a lot of work on stormwater improvements at Harbeson and is in the process of obtaining proposals for the identification of further stormwater enhancements. DNREC brought up some compliance issues that remain unaddressed from our March 2020 and August 2020 compliance correspondence. Allen Harim committed to providing the following clarifications/responses:

- AH to send sampling data for Outfall 004 to Nicole Smith
 - Amber Moore submitted an electronic copy of sampling results for Outfall 004 were submitted to Nicole Smith on December 8, 2020.
- AH to supply description of engineered berm for DNREC's records and pictures showing erosion areas identified during inspection have been stabilized.
 - An engineered berm was established as required by DNREC. The engineered berm consists of a mixture of compacted earthen/Cementous material covered with a geotextile fabric to prevent erosion. The berm was then covered with a hard compacted/Cementous material as a form of stabilization. The Routine Monthly Inspection Record (submitted monthly to DNREC) identifies evaluation of this berm as a specific line item in an effort to ensure the berm is maintained and erosion does not occur. The engineered construction should prevent erosion. The composition of the outer layer of the berm prevents vegetative growth.
- AH to provide required copy of training records.
 - Amber Moore provided the Facility's Storm Water Pollution Prevention and Spill Response Training session on November 16, 2020. Copies of the presentation summary and training rosters were provided to Nicole Smith and Jenn Roushey on December 8, 2020.
- AH to provide write up on BMPs being implemented in surplus material laydown area including visual inspections and sampling plan if run off is observed.
 - Employees were instructed that inspections of materials/equipment were to be performed prior to staging any materials/equipment within the surplus material laydown area. The Facility prohibits the storage of fluid containing parts within this area. All material was be cleaned and void of liquid materials prior to storage. This area is inspected at part of the Routine Storm Water and SPCC Inspection Program to

ensure proper storage practices are adhered. The inspection record has been revised to include a specific line item requesting identification of concentrated storm water flows in this area. In the event that evidence of a concentrated storm water discharge is observed, the area will be maintained to prevent a direct discharge or the Environmental Manager will identify this as a storm water outfall location and implement monitoring programs as required. The SWPPP will be updated as required.

DNREC will provide an email clarifying Outfall 004 sampling frequency and requested parameters. DNREC will add requirement for catch basin cleaning to the Conciliation Order with timeline to provide proof of contracting for routine performance.

Wastewater Recycling

AH has put on hold its wastewater recycling efforts due to lower production rates that have kept flow down since March. However, DNREC continues to express concern over AH's ability to meet flow limitations that are in the current draft permit once issued (2.1 mgd max was reached in September despite low production). Between uncertainty from storm events contributing extra flow to the system and AH's desire to continue hauling of process wastewater from Pinnacle and Dagsboro, DNREC would like to see wastewater reduction and recycling efforts back on schedule for completion.

AH committed to providing DNREC with a revised schedule for completion of wastewater reduction/recycling efforts based on anticipated production rates and project resources.

Allen Harim is committed to evaluating its operations to implement more sustainable measures when economically and technically feasible to do so. The nationwide COVID-19 pandemic has resulted in economic hardships for the Company along with so many other industries alike. As such, Allen Harim is currently operating at a 30% production capacity. It is likely that the Facility will increase production to 50% during the new year.

While Allen Harim sees the value in exploring opportunities to reduce and reuse water as part of its operations, the Company currently does not have the resources to complete this task. In addition, there are several federal restrictions mandated by the the USDA-Food Safety Inspection Service (FSIS) that limit opportunities for water reuse. The USDA indicated that if water is to be reused in a poultry processing facility, then this reuse water must be accounted for in the plant's HACCP program. This requirement may cause some difficulties as processors consider the associated hazard analyses. When water is used to chill or rinse broiler carcasses, fat, protein, blood, fecal material and ingesta may be deposited into the water. Pathogenic bacteria commonly found on broiler carcasses may end up in the water as well. To prevent processors from using spray or chiller rinse waters directly upstream as reuse water, and thereby possibly contaminating chickens, USDA has enacted new regulations described in CFR 416.2 (g) (3). This regulation requires that, for reuse water to be used upstream, measures be taken to reduce physical, chemical and microbiological contamination to a level appropriate for use in their process to prevent contamination or adulteration of product. As you can imagine, installing equipment to procedures to reuse water within the plant will not only be challenging but also impose a financial burden on the Company, which would be a true hardship during the economic crisis a lot of companies are experiencing.

Allen Harim is committed to complying with the proposed permitted wastewater processing volume of 1.5 MGD and realizes any flow in excess of the permit limit would be considered a violation. Should production capacities at the Plant increase to 70%, Allen Harim will begin exploring opportunities to reduce water consumption and implement practices as feasible. Should Allen Harim need to explore additional opportunities to reduce its wastewater processing volumes, the Facility will then explore and identify opportunities for water reuse within the Plant. Water reuse initiatives will only be explored should water reduction opportunities not suffice with reducing wastewater flow volumes to permitted levels. It should be noted that Allen Harim's WWTP is designed to treat 2.0 million gallons per day; therefore, the Facility will also explore opportunities to modify the issued permit and request an increase in permitted treatment volumes should the need arise.

Pinnacle

AH has been exploring options of sanitary disposal at nearby treatment facilities. Millsboro is not interested even if AH provides a pump station. Sussex County said AH should exhaust all other options before they would consider it, but a pump station could potentially be added to pump sanitary to Dagsboro for treatment. AH is currently investigating the idea of an onsite large septic system to manage sanitary; groundwater monitoring for that assessment begins in January. (note – Amber, there was wet season monitoring performed last year for the RIBs....not sure if any of that is close enough that it could be used for the septic eval. Check with Michael and Duffield).

Allen Harim has received groundwater monitoring results performed by ARM. Allen Harim is in discussion with Duffield Associates to determine whether or not wet season monitoring was performed as part of their groundwater monitoring program. Representatives of ARM are currently on vacation and will not return to the office until December 10, 2020. Allen Harim has requested a meeting with Laf Erickson of ARM to determine whether or not a wet season monitoring program should be implemented beginning January 2021 to determine whether or not onsite sanitary disposal is an option. Representatives of Allen Harim had discussions with Mike Cotton, Engineer, on December 3rd and 4th to discuss the possibility of onsite wastewater treatment. Mr. Cotton indicated that he believes based on the information he has reviewed that an onsite wastewater treatment system could be installed at Parcel A/1 and allow for onsite treatment of sanitary wastewater. Additional discussions with ARM, Duffield and Mike Cotton are required to determine necessary monitoring and task items to identify technically feasible design applicable to site conditions. Allen Harim requires additional time to meet with appropriate parties to determine the timeline and path forward.

Regarding process water, AH would like to continue to haul to Harbeson for the foreseeable future until another solution is established. AH was surprised that they were hauling over 40,000gpd; they thought it was about six trucks a day. AH will check into the volume being hauled and if 40,000gpd can be maintained.

Allen Harim is currently hauling an average of 7 loads per day of process water to Harbeson. The operation is currently one shift per day. Allen Harim is contemplating a two shift operation and would like to increase the number of loads to 10 per day.

AH is also interesting in looking into a hybrid onsite disposal solution/hauling solution. AH would like to assess wastewater treatment upgrades with disposal via spray irrigation for most of the year with hauling of wastewater to Harbeson occurring during winter months when spray irrigation is prohibited/not feasible. AH said spray irrigation had been abandoned as their onsite disposal method because they lack a storage lagoon for storing wastewater when spray irrigation is prohibited.

If Allen Harim were able to haul during the prohibited spray irrigation period, Spray irrigation of treated wastewater would be a good option. Allen Harim needs to confirm the details with Duffield.

DNREC requested a summary of options explored to date and timeline for investigating the proposed disposal options for sanitary and process wastewater. DNREC inquired if AH still would consider an interim hauling solution for sanitary while the permanent solution is determined in order to end stream discharge as soon as possible. AH said they would be willing to consider that as their short term solution for sanitary; it likely would involve hauling sanitary to the Sussex County system.

Allen Harim is currently compiling information to identify a comprehensive timeline of actions taken to investigate disposal options at the Facility. Allen Harim will submit this timeline to DNREC by December 15, 2020/ Allen Harim will investigate this option with Sussex County. I will make the call this week.