



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
89 KINGS HIGHWAY
DOVER, DELAWARE 19901
DIVISION OF WATER

Surface Water
Discharges

Phone: (302) 739-9946
Fax: (302) 739-8369

November 3, 2016

****HAND DELIVERED****

**NOTICE OF VIOLATION
W-16-SWD-04**

Mr. Kevin Gordon
Plant Manager
Allen Harim Foods, LLC
18752 Harbeson Road
Harbeson, DE 19951

**RE: Notice of Violation – Allen Harim Foods, LLC – Harbeson, DE Facility
NPDES Permit No. DE 0000299**

Dear Mr. Gordon:

This **Notice of Violation** (NOV) is being issued to Allen Harim Foods, LLC, Harbeson, Delaware, for violations of NPDES Permit No. DE 0000299. NPDES Permit No. DE 0000299 authorizes the discharge of effluent from the Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant, through an Outfall identified as 001, which discharges to Beaverdam Creek, and ultimately empties into the Broadkill River.

As a condition of the NPDES Permit No. DE 0000299, the Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant is required to monitor its discharge on a regularly scheduled basis, by collecting samples of its discharge and analyzing those samples collected for a number of pollutant parameters as specified in the above mentioned NPDES Permit. Data generated as a result of the sampling and analysis are summarized in a monthly Discharge Monitoring Report (DMR) that is submitted to the Department on a regular basis as stipulated in the NPDES Permit.

During the period March 1, 2012 through ~~October 9, 2016~~ ^{October 28, 2016}, the Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant has submitted Discharge Monitoring Reports, "5-Day Letters", and non-compliance letters to the Department, and has reported effluent violations of the above mentioned NPDES Permit. The reported violations appear to be a direct result of treatment equipment inadequacies, process overloads, and specific circumstances as detailed in the reports submitted to the Department.

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Pursuant to the authority in 7 *Del.C.*, §6005, you are hereby notified that the Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant is in violation of 7 DE Admin. Code 7201 *Regulations Governing the Control of Water Pollution* §3.1.1.4, §3.2.1, and §3.2.3, by discharging pollutants from a point source into surface water.

The Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant's failure to meet specific requirements of NPDES Permit No. DE 0000299 is also in direct violation as cited below. The facility is required to take the noted actions in order to address each violation:

The Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant reported the following violations of their NPDES Permit No. DE 0000299 as follows:

Outfall 001 Violations

A. The permit limit of 0.62 mg/l for the monthly average concentration of Ammonia was exceeded during following months:

- August 2016 – average concentration reported at <2.07 mg/l
- September 2016 – average concentration reported at 0.92 mg/l

B. The permit limit of 0.93 mg/l for the daily maximum concentration of Ammonia was exceeded on the following days (total of 16 days):

- August 31, 2016 thru September, 2, 2016 (3 days) – concentration reported at 9.66 mg/l
- September 3, 2016 – concentration reported at 1.35 mg/l
- September 15, 2016 – concentration reported at 2.84 mg/l
- September 16, 2016 – concentration reported at 1.28 mg/l
- September 17 thru September 18, 2016 (2 days) – concentration reported at 2.95 mg/l
- September 22, 2016 – concentration reported at 2.8 mg/l
- September 23, 2016 – concentration reported at 2.8 mg/l
- October 1, 2016 – concentration reported at 7.36 mg/l
- October 2, 2016 – concentration reported at 1.55 mg/l
- October 4, 2016 – concentration reported at 5.2 mg/l
- October 5, 2016 – concentration reported at 2.44 mg/l
- October 7, 2016 – concentration reported at 3.4 mg/l
- October 8, 2016 – concentration reported at 13.6 mg/l
- October 9, 2016 – concentration reported at 1.13 mg/l
- October 20, 2016 – concentration reported at 2.26 mg/l
- October 26, 2016 – concentration reported at 2.68 mg/l
- October 27, 2016 – concentration reported at 5.07 mg/l
- October 28, 2016 – concentration reported at 5.30 mg/l

C. The permit limit of 10.4 lbs/day for the monthly average loading of Ammonia was exceeded during the following month:

- August, 2016 – average loading reported at <25.7 lbs/day

D. The permit limit of 15.6 lbs/day for the daily maximum loading of Ammonia was exceeded on the following days (total of 13 days):

- August 31, 2016 thru September, 2, 2016 (3 days) – loading reported at 121.59 lbs/day
- September 15, 2016 – loading reported at 33.84 lbs/day
- September 16, 2016 – loading reported at 15.97 lbs/day
- September 17 thru September 18, 2016 (2 days) – loading reported at 36.17 lbs/day
- September 22, 2016 – loading reported at 34.98 lbs/day
- October 1, 2016 – loading reported at 117.50 lbs/day
- October 4, 2016 – loading reported at 65.42 lbs/day
- October 5, 2016 – loading reported at 29.80 lbs/day
- October 7, 2016 – loading reported at 35.7 lbs/day
- October 8, 2016 – loading reported at 100.6 lbs/day
- October 20, 2016 – loading reported at 24.78 lbs/day
- October 26, 2016 – loading reported at 31.2 lbs/day
- October 27, 2016 – loading reported at 60.17 lbs/day
- October 28, 2016 – loading reported at 68.67 lbs/day

E. The permit limit of 15 lbs/day (old permit) for the monthly average loading for Total Phosphorus (TP) was exceeded on the following months:

- August, 2012 – average loading reported as 15.6 lbs/day
- September, 2012 – average loading reported at 18.9 lbs/day

F. The permit limit of 5.21 lbs/day (new permit) for the monthly average loading for Total Phosphorus (TP) was exceeded on the following month:

- July, 2016 – loading reported at 8.2 lbs/day

G. The permit limit of 23 lbs/day (old permit) for the daily maximum loading for Total Phosphorus (TP) was exceeded on the following days (total of 21 days):

- August 28, 2012 – September 4, 2012 (8 days) – 42.7 lbs/day
- September 5, 2012 – September 10, 2012 (6 days) – 44.4 lbs/day
- September 11, 2012 – September 17, 2012 (7 days) – 27.94 lbs/day

H. The permit limit of 7.82 lbs/day (new permit) for the daily maximum loading for Total Phosphorus (TP) was exceeded on the following days (total of 6 days):

- July 26, 2016 thru July 31, 2016 (6 days) – 23.9 lbs/day

I. The permit limit of 3.0 mg/l (old permit) for the daily maximum concentration for Total Phosphorus (TP) was exceeded on the following days (total of 21 days):

- August 28, 2012 – September 4, 2012 (8 days) – 7.5 mg/l
- September 5, 2012 – September 10, 2012 (6 days) – 6.23 mg/l
- September 11, 2012 – September 17, 2012 (7 days) – 3.79 mg/l

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J. The permit limit of 9.1 mg/l for the monthly average concentration for Total Suspended (TSS) was exceeded on the following month:

- July, 2016 – average concentration reported at 11.65 mg/l

K. The permit limit of 13.7 mg/l for the daily maximum concentration for Total Suspended Solids (TSS) was exceeded on the following days (total of 6 days):

- July 26, 2016 thru July 31, 2016 (6 days) – 29.2 mg/l

L. The permit limit of 228 lbs/day for the daily maximum loading for Total Suspended Solids (TSS) was exceeded on the following days (total of 6 days):

- July 26, 2016 thru July 31, 2016 (6 days) – 256.9 lbs/day

M. The permit limit of 113 col/100ml for the daily maximum concentration for Enterococcus was exceeded on the following days (total of 2 days):

- September 7 & 8, 2016 (2 days) – 248.1 col/100ml

N. The permit limit of 55.3 mg/l for the daily maximum concentration for Total Nitrogen (TN) was exceeded on the following days (total of 7 days):

- March 20, 2012 thru March 26, 2012 (7 days) – 56.2 mg/l

Outfall 003 Violations

O. The permit limit of 20 mg/l for the monthly average concentration for Total Suspended (TSS) was exceeded on the following months:

- July, 2012 – average concentration reported at 474.0 mg/l
- August, 2012 – average concentration reported at 160 mg/l
- June, 2013 – average concentration reported at 674.0 mg/l
- July, 2015 – average concentration reported at 478.0 mg/l

P. The permit limit of 13.7 mg/l for the daily maximum concentration for Total Suspended Solids (TSS) was exceeded on the following days (total of 6 days):

- July 20, 2012 (1 days) – 474.0 mg/l
- August 2, 2012 (1 day) – 160.0 mg/l
- June 3, 2013 (1 day) – 674.0 mg/l
- July 21, 2015 (1 day) – 478 mg/l

Q. The permit limit of 185 col/100ml for the daily maximum concentration for Enterococcus was exceeded on the following day:

- June 3, 2013 (1 day) – 1,732,870 col/100ml

R. The permit limit of 16.0 mg/l for the monthly average concentration for 5-Day Biochemical Oxygen Demand (BOD₅) was exceeded on the following months:

- July, 2012 – average concentration reported at 31.2 mg/l

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- August, 2012 – average concentration reported at 30.4 mg/l
- June, 2013 – average concentration reported at 20.4 mg/l

S. The permit limit of 26.0 mg/l for the daily maximum concentration for 5-Day Biochemical Oxygen Demand (BOD₅) was exceeded on the following (2) days:

- July 20, 2012 (1 day) – 31.2 mg/l
- August 2, 2012 (1 day) – 30.4 mg/l

T. Failure to Operate as Efficiently as Possible, all Collection and Treatment Facilities:

- Part II, A.3 of NPDES Permit DE 0000299 requires that *the permittee shall at all times maintain in good order and operate as efficiently as possible, all collection and treatment facilities and systems (and related appurtenances) installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of this permit.*

U. Failure to Sample Outfall 001 For Enterococcus During Week of May 20, 2012 as Required by Permit:

- *NPDES Permit No. DE0000299 requires that Outfall 001 must be sampled a minimum of one time per week. During the week of May 20, 2012 thru May 26, 2012, the Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant failed to sample Outfall 001 as required.*

Action Required: The Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant must be operated and maintained at a level so as to achieve compliance with the facility's NPDES Permit No. DE0000299 at all times. The Allen Harim Foods, LLC, Harbeson, DE Wastewater Treatment Plant must respond formally to this Notice of Violation with a written plan to maintain in good order and operate as efficiently as possible, all collection and treatment facilities to maintain compliance with their NPDES Permit No. DE0000299. At a minimum, the following specific concerns must be addressed in the formal follow-up written plan and response to this Notice of Violation:

- In reviewing the data submitted by Allen Harim Foods, LLC, Harbeson, DE, it is apparent that the facility is experiencing intermittent high levels of ammonia entering the WWTP, and at times, the WWTP cannot process the increased levels of ammonia to meet permitted effluent limits as stated in the facility's NPDES Permit No. DE0000299. Allen Harim Foods, LLC must submit a summary report that specifically states all steps taken to identify the root cause of the increased ammonia levels in the influent, all steps taken to correct any deficiencies found, and steps to be taken to ensure that ammonia levels are monitored on a frequent basis, and that the wastewater treatment plant will be able to treat the ammonia levels to meet effluent permit requirements in the future. *Note: Recent data have indicated that this intermittent spike in ammonia levels remains a concern. What future/continued steps is Allen Harim Foods, LLC, committed to, in order to identify the source/sources of these elevated ammonia levels, and to reduce these levels back to a "normal" level as indicated in earlier data.*
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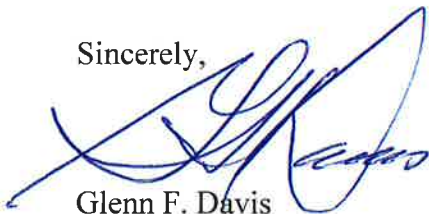
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- What proactive steps will Allen Harim Foods, LLC initiate to monitor the levels of ammonia throughout the wastewater treatment process in order to be able to respond more quickly, to changes in ammonia levels entering the treatment plant?
- What proactive steps will Allen Harim Foods, LLC initiate to better balance the ability to treat ammonia levels in the wastewater and properly treat to acceptable levels in all parameters of their NPDES Permit No. DE0000299.
- Allen Harim Foods, LLC shall develop a Standard Operating Procedure to address any upset condition in the treatment plant related to ammonia, Total Nitrogen, TSS, or any other required effluent limitation. The SOP must address increased “Process-Control” sampling, increased sampling at the 001 Outfall, stream sampling, etc., and document that all treatment plant personnel have received proper training & instruction as related to the upset condition(s).

Your immediate attention to the above mentioned violations is required. Within 30 days of receipt of this **NOV**, the Allen Harim Foods, LLC, Harbeson, DE facility, shall submit a formal report and plan to this office that addresses the aforementioned violations and Actions Required. As noted above, this report must address specific reasons for the violations, action taken to correct the violations, and most specifically, corrective measures taken (and/or scheduled) to prevent future occurrence of these violations. In the interest of paperwork reduction, reference may be made to previously submitted Five-Day Letters, reports, etc. Specific information relating to the prevention of future occurrences must be presented in the follow-up report and plan. Failure to comply with this notice **will** result in a penalty as provided in 7 Del.C Chapter 60. Upon further review of these violations, the Department reserves the right to pursue additional enforcement action.

Should you have any questions regarding this matter, please feel free to contact me at (302) 739-9946. This **NOV** will be posted on the DNREC website at www.dnrec.state.de.us.

Sincerely,



Glenn F. Davis
State of Delaware - DNREC
Program Manager
Surface Water Discharges Section
Compliance and Enforcement Branch

ecopy: Bryan Ashby - DNREC
Nicole Smith - DNREC

A KNOWLEDGEMENT OF RECEIPT

I, James Quinton, of the Allen Harim Foods, LLC, Harbeson Processing Plant, in Harbeson, Delaware, hereby acknowledge receipt of this Notice of Violation No. W-16-SWD-04, hand delivered by Mr. Glenn Davis, of the DNREC, Division of Water, Surface Water Discharges Section, Compliance & Enforcement Branch.

For: ALLEN HARIM FOODS, LLC, HARBESON, DELAWARE

Date of Receipt: 11/4/2016

By: 

Printed Name: James Quinton

Title: Asst. Plant Manager