



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

OFFICE OF THE  
SECRETARY

PHONE: (302) 739-9000  
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**Secretary's Order No. 2015-W-0001**

**Re: Application of Dogfish Head Craft Brewery, Inc. to Renew Non-Hazardous  
Liquid Waste Transporters Permit DE OH-103**

**Date of Issuance: November 25, 2015**

**Effective Date: November 25, 2015**

Pursuant to 7 Del. C. §§6003, 6004, 6006(4) and other relevant authority, the Secretary of the Department of Natural Resources and Environmental Control ("Department") issues this Order after a public hearing on Dogfish Head Craft Brewery, Inc.'s ("Applicant") December 2, 2013 Application ("Application") to renew a permit to transport non-hazardous liquid waste for disposal at ten Delaware locations.

On March 27, 2014, the Department held a public hearing before the Department's presiding hearing officer, Robert P. Haynes, who prepared the attached report of recommendations ("Report"). The Report establishes the record and recommends issuance of Department's Division of Water, Groundwater Discharge Section's ("GWDS") draft permit, which was attached to GWDS' Technical Response Memorandum ("TRM") provided to Mr. Haynes. The Department adopts the Report to the extent it is consistent with this Order.

*Delaware's Good Nature depends on you!*

## FINDINGS OF FACT

Applicant seeks to renew a permit for the transportation of non-hazardous liquid waste pursuant to *7 Del. C. §6003(a) (4)*. Under the renewal application submitted to GWDS, Applicant's trucks would continue to transport Applicant's beer brewery liquid waste from the Applicant's Milton, Sussex County brewery to ten Delaware locations for disposal. Disposal of the waste at eight locations is by land application to farmlands under the Department's program for beneficial use of liquid wastes for agricultural purposes. The two other disposal locations are Department permitted wastewater treatment plants ("WTP"), namely, Kent County's WTP near Frederica, Kent County, and the former Pinnacle Foods WTP in Millsboro, Sussex County ("Pinnacle WTP"). The Department previously approved Applicant's transportation to the ten locations in the existing non-hazardous liquid waste transporter's permit DE-OH-103, and the renewal application proposed no changes to the current permit.

Applicant timely filed to renew the permit prior to its expiration date, which under the Department's Regulations allows the existing permit to be administratively extended until the Department's decision on the renewal application. The Application was the subject of public comments, which only objected to Applicant's use of the Pinnacle WTP location.

The public comments claim that the Pinnacle WTP should not be used because it is closed following the December 2012 closure of the Pinnacle pickle processing. The public comments also claim that the Pinnacle WTP does not have authority to receive Applicant's non-hazardous waste. The public comments are correct in that the Pinnacle pickle production in December 2012, but they are not correct that the Pinnacle WTP is

closed or is not authorized to receive Applicant's non-hazardous waste. First, Applicant uses the Pinnacle WTP for treatment of its brewery wastes. Second, the Pinnacle WTP is used for the Pinnacle site's sanitary sewage treatment and disposal requirements. Third, the Pinnacle WTP receives and treats stormwater flows. Thus, the Pinnacle WTP remains in operation since the pickle processing ended, albeit at a reduced level.

The Pinnacle WTP plant treats Applicant's liquid waste and discharges the treated wastewater into the Indian River pursuant to the Department issued National Pollutant Discharge Elimination System ("NPDES") permit. The Department's experts indicate Applicant's brewery liquid waste helps the Pinnacle WTP's wastewater treatment process by providing nutrients to the aerobic process that treats the wastewater. Thus, Applicant's use of the Pinnacle WTP is beneficial to the treatment process.

The Pinnacle WTP continues to operate, albeit at a significantly reduced level compared when it was operated for treating the pickle processing plant's wastewater prior to 2012. The Pinnacle WTP still has a valid NPDES permit, which was administratively extended under the Department's regulations when the Applicant timely submitted an application to renew the NPDES permit. Applicant wants to use the Pinnacle WTP and Applicant can legally use the Pinnacle WTP because it has a valid NPDES permit. In sum, the public comments provide no valid reason why Applicant should not be allowed to continue to use the Pinnacle WTP, and Applicant should be allowed to continue its waste transportation to the Pinnacle WTP under a renewed transportation permit.

The public comments also objected to the permit renewal because of the possible impact from the Pinnacle WTP's discharges into the Indian River. The Report found the Department's scope of regulation in the transportation permit renewal is limited to the

closed or may not receive Applicant's non-hazardous waste. First, Applicant uses the Pinnacle WTP for treatment of its brewery wastes. Second, the Pinnacle WTP is used for the Pinnacle site's sanitary sewage treatment and disposal requirements. Third, the Pinnacle WTP receives and treats stormwater flows. Thus, the Pinnacle WTP remains in operation since the pickle processing ended, albeit at a reduced level.

The Pinnacle WTP plant treats Applicant's liquid waste and discharges the treated wastewater into the Indian River pursuant to the Department issued National Pollutant Discharge Elimination System ("NPDES") permit. The Department's experts indicate Applicant's brewery liquid waste helps the Pinnacle WTP's wastewater treatment process by providing nutrients to the aerobic process that treats the wastewater. Thus, Applicant's use of the Pinnacle WTP is beneficial to the treatment process.

The Pinnacle WTP continues to operate, albeit at a significantly reduced level compared when it was operated for treating the pickle processing plant's wastewater prior to 2012. The Pinnacle WTP still has a valid NPDES permit, which was administratively extended under the Department's regulations when the Applicant timely submitted an application to renew the NPDES permit. Applicant wants to use the Pinnacle WTP and Applicant can legally use the Pinnacle WTP because it has a valid NPDES permit. In sum, the public comments provide no valid reason why Applicant should not be allowed to continue to use the Pinnacle WTP, and Applicant should be allowed to continue its waste transportation to the Pinnacle WTP under a renewed transportation permit.

The public comments also objected to the permit renewal because of the possible impact from the Pinnacle WTP's discharges into the Indian River. The Report found the Department's scope of regulation in the transportation permit renewal is limited to the

environmental issues with the transportation of non-hazardous liquid waste from the Applicant's Milton location and to the ten Department authorized locations. Any issues with possible impact of discharges should be addressed in a Department decision on the NPDES permit for the Pinnacle WTP. The Pinnacle WTP is authorized to discharge consistent with its valid NPDES permit, which remains in effect until revoked or modified in a NPDES permit proceeding.

### **CONCLUSIONS AND REASONS**

The Department concludes that the current permit authority enabling Applicant's transportation of non-hazardous liquid waste should be renewed and a new permit issued to Applicant based upon the GWDS draft permit and consistent with this Order. The public comments have no objection to the transportation except to the one location, the Pinnacle WTP, and this location is authorized to receive and treat to Department standards the liquid waste.

In sum, the Applicant provided ample support for the renewal of its permit, which will continue Applicant's brewery waste transportation to the ten locations authorized in the current permit. The public comments that opposed the inclusion of the Pinnacle WTP have been considered and the Department determines that the public comments do not support a decision to deny the inclusion of the Pinnacle WTP as an authorized location for the liquid waste in the Applicant's non-hazardous waste transporter permit. The Pinnacle WTP is a duly authorized wastewater treatment and disposal facility and, as such, can accept and treat the liquid waste and discharge the treated wastewater to meet

the limits and standards required by the Department in its NPDES permit. Consequently, the transportation to the Pinnacle WTP and the other nine locations should be approved, and the Department directs the following as its final order:

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding pursuant to *7 Del. C. §§6003, 6004, 6006(4)* and other relevant authority following a public hearing;

2. The Department provided adequate public notice of Applicant's application and the public hearing pursuant to *7 Del. C. §6004(b)*;

3. The Department considered all timely and relevant public comments in the record and the advice of its experts making its determination;

4. The record supports approval of the Application and issuance of a permit drafted by GWDS that imposes reasonable conditions to protect the environment; and that

5. The Department shall publish this Order on its web page and shall provide notice of this Order to the persons who may be affected by this Order, as determined by the Department, and as required by law and Department regulations.

A handwritten signature in blue ink, appearing to read "David S. Small", is written over a horizontal line.

David S. Small  
Secretary

## HEARING OFFICER'S REPORT

TO: The Honorable David S. Small  
Secretary, Department of Natural Resources and Environmental Control

FROM: Robert P. Haynes, Esquire  
Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

RE: Application of Dogfish Head Craft Brewery, Inc. to Renew Non-Hazardous  
Liquid Waste Transporters Permit DE OH-103.

DATE: October 19, 2015

### I. PROCEDURAL HISTORY

This Report establishes a record and makes recommendations to the Secretary of the Department of Natural Resources and Environmental Control ("Department") on Dogfish Head Craft Brewery, Inc.'s ("Applicant") November 26, 2013 permit renewal application ("Application"). The Application was submitted to Department's Division of Water, Ground Water Discharge Section ("GWDS") to renew a permit to transport non-hazardous liquid waste from Applicant's beer brewery in Milton, Sussex County to ten locations in Sussex and Kent Counties, which will be used for disposal by land application for agricultural purposes at eight locations or disposal at two wastewater treatment plants ("WTP") that operate pursuant to existing Department issued permits.

On December 8, 2013, the Department published in two newspapers public notices of a completed application. The Department received requests for a public hearing and comments that opposed the continued use of one disposal location, the Pinnacle WTP ("Pinnacle WTP") located at the former Pinnacle/Vlasic pickle processing plant in Millsboro, Sussex County, which was acquired by Allen Harim in late 2014.

On March 2, 2014, the Department published in two newspapers public notices of a public hearing to be held March 27, 2014 at the Millsboro Middle School, 302 East State Street, Millsboro, Sussex County.

I presided over the March 27, 2014 public hearing, which was attended by approximately thirty persons, including representatives of GWDS and the Applicant. The public comment period closed at the conclusion of the public hearing,

On January 7, 2015, Allen Harim, sent a letter to the Department indicating that it would to continue to allow Applicant's use of the Pinnacle WTP for treatment and disposal of Applicant's brewery waste.

GWDS provided its recommendation in the Technical Response Memorandum ("TRM") that is attached hereto. **II. SUMMARY OF THE RECORD<sup>1</sup>**

The record established by this Report includes the following: 1) the verbatim transcript of the public hearing; 2) the documents submitted as hearing exhibits; and 3) the documents identified in this Report.

At the March 27, 2014 public hearing, Ronald Graeber, Manager of GWDS' Large Systems Branch, provided for public hearing<sup>2</sup> certain relevant documents from the Department's files, which are identified and summarized below:

- DNREC Ex. 1-Applicant's application;
- DNREC Ex. 2-Department's public notices of the application and the public comment period and procedure to request a public hearing;
- DNREC Ex. 3-John Austin's December 21, 2013 email requesting a public hearing;
- DNREC Ex. 4-Cindy Walton's December 22, 2013 email requesting a public hearing;
- DNREC Ex. 5-Doug and Joan Failla's December 22, 2013 email requesting a public hearing;

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<sup>1</sup> This summary reviews a record without determining its factual accuracy except for the information prepared by the Department.

<sup>2</sup> The Department does not have an obligation to develop the record at the public hearing, and provides documents solely to assist the public in making public comments. The Department's full administrative record is established by this Report, as may be supplemented or revised by the Secretary.

DNREC Ex. 6-Frank Wilcox's February 15, 2014 email requesting public hearing in the Millsboro area;  
DNREC Ex. 7-Patricia Catalano's February 11, 2014 email requesting a public hearing and commenting on the Pinnacle WTP;  
DNREC Ex. 8-Karen Keough's February 11, 2014 email commenting on the Pinnacle location's discharge into the Indian River;  
DNREC Ex. 9-Department's public notices of the public hearing;  
DNREC Ex. 10-John Austin's March 20, 2014 email opposing the use of the Pinnacle WTP;  
DNREC Ex. 11-Maria Payan's March 21, 2014 email opposing the use of the Pinnacle location;  
DNREC Ex. 12-Chuck Schonder's March 21, 2014 email opposing the use of the Pinnacle WTP;  
DNREC Ex.13- Ron Graeber's email response to John Austin's email; and  
DNREC Ex. 14-The Applicant's Department issued Non-hazardous Liquid Waste Transporters Permit OH-103, which authorized the transportation of Applicant's brewery waste to eight sites for land application, and to two wastewater treatment plants for treatment and disposal.

The Applicant had a representative at the hearing, Mr. Steve Rohm, an environmental consultant, who was available to answer questions.

The first public speaker was John Austin, who opposed the renewal of the permit if it included the use of the Pinnacle WTP. Mr. Austin asked about the usage of the Pinnacle WTP. Mr. Rohm responded that the brewery waste taken to the Pinnacle WTP was used in order to keep the WTP's microorganisms alive when the pickle production was idle during December-March. Mr Rohm also explained that waste deliveries to the Pinnacle WTP did not occur between sunset and sunrise because of the Pinnacle WTP site lacked of lighting that was needed for safety reasons for the deliveries. Mr. Austin asked about Applicant's potential deliveries to the Pinnacle WTP up to 35,000 gallons per day, which he estimated would require at least six truck deliveries. Mr. Austin also wanted more information on the transportation routes to the Pinnacle WTP. Finally, Mr. Austin questioned the use of the Pinnacle WTP, which he described as shuttered and by his observation from outside the fence was not in good condition and was operating without an operator on site.

The second public speaker was Franklin Wilcox, who requested that the Department take the Pinnacle WTP off the list of approved locations given the opposition and the availability of other sites.

The third speaker was Patricia Catalano, who spoke as a resident of Wharton's Bluff. She expressed her concern with the "dumping of the waste" at the Pinnacle WTP, which she described as a "compromised site" that had no oversight.

The fourth speaker was Chuck Schonder, who wanted to remove the Pinnacle WTP from the permit. He asked about any financial benefit to the Department from using Pinnacle WTP location. Mr. Graeber answered by stating that there was no financial benefit to the Department. Mr. Graeber also stated that the Department was not aware of the financial arrangement between the Applicant and the owners of the Pinnacle WTP. Mr. Schonder also asked about the operation of the Pinnacle WTP, and Mr. Graeber answered by stating that the Pinnacle WTP was operating pursuant to a Department permit. Mr. Schonder questioned whether the Pinnacle WTP has a valid permit to operate.

The fifth public speaker was Maria Payan, who identified herself as a consultant for the Socially Responsible Agriculture Project for the group Protecting our Indian River Bay. She stated her opposition to Applicant's use of the Pinnacle WTP location. She provided information on her conversation with United States Environmental Protection Agency ("EPA") employee David McGuigen, which she claimed supported not using the Pinnacle WTP. She also claimed that the Pinnacle WTP was designed for pickle waste and not for brewery waste. She claimed that Pinnacle WTP was not operating under a valid permit.

The sixth speaker was Dotty Lecates, who said the Pinnacle WTP's NPDES permit expired on October 31, 2013. She wondered how long the Pinnacle WTP would be allowed to

operate without supervision and to continue to dump into the Indian River. She discussed her involvement with monitoring the Indian River's water quality.

The seventh public speaker was Joanne Haynes, who asked Mr. Rohm to report to the Applicant that the people at the public hearing did not want Applicant to use the Pinnacle WTP location.

The eighth public speaker was Barry Goldman, who opposed the use of the Pinnacle WTP because it allowed further dumping of pollutants into the Indian River. Mr Graeber explained that such discharges were authorized by the Department's permit. Mr. Goldman discussed how the Pinnacle WTP has not met its permit requirements, and how the permit has offsets that were phony and bogus. He discussed his filing of a complaint with EPA over the Pinnacle WTP permit and the offsets.

The ninth public speaker was Patricia Catalano, who opposed including the Pinnacle WTP in the permit and asked about the process for public comment on the Pinnacle WTP's other permit applications. Mr. Graber said that the Pinnacle WTP permit applications would have public notices published and that the Department would provide the opportunity to comment on the permit applications for the Pinnacle WTP.

The tenth public speaker was Bruce Ballantine, who mentioned the long opposition to using the Pinnacle WTP, which he said was on a contaminated site that discharges contaminants into the Indian River.

The eleventh public speaker was Carol Cohen, who spoke about her concern with increased truck traffic, including from the cement plant and the Allen Harim plant. She raised concerns that Applicant's trucks would cause even more trucks to the area.

The twelfth public speaker was Samantha Wilton, who spoke in opposition to the use of the Pinnacle WTP.

Following the hearing I requested advice from GWDS, which provided its TRM recommending approval of a permit and included a draft permit should the Secretary decide to approve the permit. GWDS' TRM also explained the benefits to the Pinnacle WTP from Applicant's waste. GWDS also reviewed the Department files on the ten disposal locations to verify they were authorized to receive Applicant's waste.

Given the public comments that opposed Applicant using the Pinnacle WTP, I also researched the Department files on the Pinnacle NPDES permit, and include in the record from that file 1) the current NPDES permit, 2) the correspondence requesting an extension to file the NPDES renewal permit application, 3) the Department's grant of the requested extension, and 4) the filing of the NPDES permit renewal application prior to the expiration of the current permit.

I consider the record, as established above, supports this Report's recommendation, which is to issue the Applicant a permit subject to reasonable conditions set forth in GWDS's draft permit.

### **III. DISCUSSION OF FINDINGS OF FACT AND REASONS**

The Department regulates the transportation of non-hazardous liquid waste materials pursuant to *7 Del. C. §6003(a) (4)*. The Department delegated to GWDS the Department's authority to regulate by permits the transportation of non-hazardous waste to destinations where the waste would be disposed either via land application<sup>3</sup> or to a WTP for treatment and final disposal to surface waters.

The Applicant seeks to continue to transport non-hazardous liquid brewery waste from its brewery at 6 Cannery Village Center, in the Town of Milton, Sussex County, to the ten locations that the Department previously approved for final disposal of such liquid wastes. Each location

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<sup>3</sup> The current permit's eight land application locations are authorized under the Department's Beneficial Use Determination ("BUD") program, which allows certain qualified non-hazardous liquid waste to be recycled via use on agricultural fields because of the nutrients in the waste reduce the farmers' need to acquire fertilizer from other sources.

is capable of receiving all or none of the waste. The Applicant selects the use of one or more of the authorized locations any particular day or time as part of its business operations.<sup>4</sup>

I find that the eight land application locations in the Application are approved to receive the liquid waste under Department issued permits, as referenced in the current and draft permits. I also find that the two locations for treatment and disposal by Kent County's WTP near Frederica, Kent County and Pinnacle's WTP in Millsboro, Sussex County also have valid Department permits that allow the receipt of waste pursuant to the current permit.

The public comments opposed the Application's continued use of the Pinnacle WTP based upon 1) problems from the additional truck traffic, 2) the Pinnacle WTP does not have a valid NPDES permit to discharge into the Indian River, and 3) water quality of the Indian River and the Inland Bays would be harmed by the Pinnacle WTP discharges.

The truck traffic issue would be based upon Applicant's possible use of the Pinnacle WTP to deliver waste using up to six trucks a day. I find such truck traffic does not provide sufficient justification to deny the use of the Pinnacle WTP location, and traffic regulation is more a matter for the Delaware Department of Transportation to regulate than this Department's authority over the environmental safety of the transportation. The truck traffic used by Applicant would be consistent with its land use as an industrial site. Indeed, far more trucks made deliveries to the Pinnacle site when it was producing pickles than the six maximum deliveries possible based upon the vehicles in the permit. Thus, the concern about increased truck traffic does not provide any justification to deny Applicant the use of the Pinnacle WTP.

The second issue raised in the public comments about the Pinnacle WTP not having a valid permit may be based upon the Pinnacle WTP's National Pollutant Discharge Elimination

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<sup>4</sup> The Department's permits for the other locations also may allow receipt of waste to be stopped due to problems, including conflicts with the agricultural use or a problem at a WTP; i.e., there is no regulatory obligation imposed on the locations to receive the waste.

System (“NPDES”) permit. I find that the Pinnacle WTP has a valid Department NPDES permit for the treatment and disposal of liquid industrial wastes, which would include from Applicant’s brewery via truck transportation by the transporter permit. My review of the Department records finds that Pinnacle WTP has a valid NPDES based upon the Department’s interpretation that it was administratively extended beyond its otherwise October 31, 2013 expiration date. I agree that the NPDES permit would have expired on October 31, 2013 if the Pinnacle WTP’s owner and the Department had not been taken to allow an administrative extension of the current permit. Under the Department’s interpretation of its Regulations, the Pinnacle WTP’s permit remains in effect because the renewal application was timely filed and is pending review by the Department. The Pinnacle WTP’s NPDES renewal application was transferred to the new owner, Allen Harim, and that transfer did not change the administrative extension that allows the Pinnacle WTP to continue to operate under a valid NPDES permit until the Department completes its review of the pending NPDES renewal application.

The Department considers that the Pinnacle WTP’s NPDES permit remains in effect and the Department continues to regulate the Pinnacle WTP based upon that permit, based upon its administrative extension. The public comments that the permit expired are contrary to the Department’s interpretation of Regulation 7201, *7 DE Admin Code 7201*. Thus, the public comments that seek to declare the NPDES permit has expired and that the Pinnacle WTP should not be operating are misplaced.

The public comments also raised an issue with the closure of the Pinnacle/Vlasic pickle processing plant in December 2012, which is a closure that the comments claim supports finding that the Pinnacle WTP also closed. The Department considers that the Pinnacle WTP has remained in operation and has not closed. The Pinnacle WTP is used as part of the maintenance of the Pinnacle site and is used by the Applicant for the disposal of brewery waste. The

Department continues to regulate the Pinnacle WTP based upon its ongoing operation, albeit at far lower level of operation than when the pickle processing was in operation. The Department's role as regulator is to ensure that the Pinnacle WTP's wastewater treatment and disposal processes operate in compliance with its NPDES permit. The Department's experts in GWDS have determined that Applicant's waste will not adversely impact the Pinnacle WTP's operations. Indeed, the Department's experts agree that Applicant's use of the Pinnacle WTP benefits the biological treatment process by providing sufficient waste to maintain the microorganisms used for the treatment process.

The public comments also raise the issue of the impact of the Pinnacle WTP's discharges into the Indian River. This issue again is regulated by the NPDES permit that authorizes such discharges. I find that this issue of the water quality's impacts should not be addressed in a transporter permit application, but instead should be raised in a NPDES permit application proceeding. The Pinnacle WTP has capacity to receive Applicant's waste and as noted above has no restrictions that would otherwise prohibit taking Applicant's waste. The NPDES permit regulates the discharge and cannot be altered by this proceeding. I conclude that the NPDES permit should not be regulated, albeit indirectly, by restrictions in a transportation permit that attempt to prohibit Applicant from using the Pinnacle WTP for the disposal of Applicant's non-hazardous brewery waste.

The record shows that Pinnacle WTP recently was acquired by Allen Harim, which has announced plans to convert the Pinnacle pickle plant to a chicken processing plant. This possible conversion was raised in the public comments. Under this conversion, the Pinnacle WTP would be used for the chicken processing plant, but nothing in this potential change in industrial wastewater impacts the pending transportation permit application, although it could once the conversion is made sometime in the future. The impact may be from the new owner not

wanting Applicant's waste, which is a private business decision that would not entail any Department action. The public comments challenging continued transportation of Applicant's non-hazardous liquid waste to the Pinnacle WTP because of the proposed conversion of the Pinnacle plant into a chicken processing plant are premature. This proposed conversion, which may or may not occur, does not provide any ground to oppose the continued transportation of Applicant's brewery liquid waste to the Pinnacle WTP. The record supports renewal of the permit based upon the application, which lists the equipment to be used and operated in a manner that is safer for the environment and public health. Applicant's operations under the existing permit also provide no ground to deny the renewal application, but instead support the renewal with a good record of compliance.

#### **IV. CONCLUSIONS**

In sum, the record supports issuance of the renewal permit submit to the permit conditions prepared by GWDS and the following should be entered as an Order of the Secretary

1. The Department has jurisdiction under its statutory authority to make a determination in this proceeding pursuant to *7 Del. C. §§6003, 6004, 6006(4)* and other relevant authority following a public hearing;
2. The Department provided adequate public notice of Applicant's Application and the public hearing pursuant to *7 Del. C. §6004(b)*;
3. The Department considered all timely and relevant public comments in the record and the advice of its experts making its determination;
4. The record supports approval of the Application and issuance of a permit drafted by GWDS that imposes reasonable conditions to protect the environment; and that

5. The Department shall publish this Order on its web page and shall provide notice of this Order to the persons affected by this Order, as determined by the Department, and as required by law and Department regulations.



Robert P. Haynes, Esquire  
Hearing Officer

## MEMORANDUM

TO: Robert P. Haynes, Esq., Senior Hearing Officer

THROUGH: Ronald Graeber, Program Manager I, Ground Water Discharges Section *RG*

FROM: Katharyn Potter, Environmental Engineer(II) *KP*

SUBJECT: Recommendation regarding issuance of Non-Hazardous Liquid Waste Transporter Permit OH-103 (Dogfish Head Craft Brewery Inc.)

DATE: October 14, 2015

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This memo is to request that the Secretary approve the issuance of the attached Non-Hazardous Liquid Waste Transporter Permit OH-103 (Permit), for Dogfish Head Craft Brewery Inc. (Applicant).

On March 27, 2014, a public hearing was held regarding the renewal of the above-mentioned Permit. The public hearing was a result of local citizens disagreeing with the operation of one of the disposal sites for the Applicant's brewery wastewater – Pinnacle Foods Wastewater Treatment Plant (WTP), located in Millsboro. The Pinnacle WTP is one of several Department-approved disposal sites for the Applicant; Pinnacle WTP has been an approved disposal site since 2005. The brewery wastewater helps the wastewater treatment process by providing nutrients to the aerobic bacteria that treats the wastewater. Consequently, Ground Water Discharges Section staff views this discharge as a beneficial reuse of a waste product.

During the public hearing, all of the comments were related to Pinnacle and Pinnacle's NPDES Permit; no comments were related to the renewal of the Applicant's Permit.

At this time, Pinnacle has now been sold to Allen-Harim. The Applicant has provided written approval from Allen-Harim, indicating that Allen-Harim will continue to accept the brewery wastewater, for the wastewater treatment plant owned by Allen-Harim.

Therefore, attached for your review and approval, please find the above-referenced Permit, to be issued to Dogfish Head Craft Brewery Inc.



## Non-Hazardous Liquid Waste Transporters Permit

Issued by: Groundwater Discharges Section  
Division of Water Resources  
Department of Natural Resources  
and Environmental Control  
89 Kings Highway  
Dover, Delaware 19901  
302-739-9948

**Dogfish Head Craft Brewery Inc**  
6 Cannery Village Center  
Milton, DE 19968

Permit Number: **DE OH-103**  
Issue Date:  
Expiration Date:

Pursuant to the provisions of 7 Del. C., Chapter 60, and the State of Delaware Department of Natural Resources and Environmental Control's Guidance and Regulations Governing the Land Treatment of Wastes, and Secretary's Order No 2015-W-0001 issued \_\_\_\_\_ permission is hereby granted to Dogfish Head Craft Brewery Inc to operate and maintain the vehicle(s) listed in the permit application and any supplemental submissions to the Department, operated by Dogfish Head Craft Brewery Inc, for the purpose of collecting, transporting through Delaware and disposing of the non-hazardous liquid wastes to locations listed in Condition 1 of this permit.

A copy of this permit must accompany each permitted vehicle and be presented upon request to any law enforcement officer or representative of the Department of Natural Resources and Environmental Control.

This permit is issued subject to the following conditions:

1. Disposal site(s) for all waste(s) transported shall be the following:

a. Non-Hazardous Liquid Waste, brewery wastewater, and brewery residuals

i) Land Application in accordance with the following approvals:

(a) AGU 0903-S-05:

- (i) Payton Farm, Milton (2-35-19.00-10);
- (ii) Baker Farm, Milton (2-35-19.00-23.00);
- (iii) Burton Farm, Milton (2-35-19.00-4.00);
- (iv) Sequoia Farm, Milton (2-35-13.00-3.02);
- (v) Spicer Farm, Milton (2-30-27.00-70.00);

(b) AGU 1202-S-03 issued to Clean Delaware, Inc. (CDI):

- (i) Milton Farm site, Milton (2-35-14.00-1.00, 2-35-14.00-2.00, 2-35-14.00-3.00, 2-35-14.00-60.00);
- (ii) Ellendale Site (New Market), Ellendale (2-35-6.00-12.00);
- (iii) Harbeson Site, Harbeson (2-35-30.00-62.00);

ii) Brewery Wastewater only:

- (a) Clean Delaware, Inc. in accordance with AGU 1202-S-03;
- (b) Pinnacle Foods Group, at the Pinnacle Foods Industrial Wastewater Treatment Facility (Millsboro, in accordance with NPDES permit number DE 0000736);
- (c) Kent County Sewer System.

2. Permittee shall maintain a current copy of their permit/authorization documentation for each facility listed in Condition 1 on file with the Department.

3. All receiving stations must be in compliance with all Federal, State and local regulations.
4. None of the wastes shall be deposited into ditches, watercourses, lakes, ponds, tidewater sources, landed property or at any point other than the disposal site(s) mentioned in Condition 1 above.
5. All waste material collected by permittee shall be transported and disposed of in accordance with the regulations of the Department of Natural Resources and Environmental Control and upon authorization by the disposal site(s) listed in Condition 1 above. None of these wastes may be disposed of within the State of Delaware without specific permission of the Department.
6. The company name, address and permit number shall be displayed on both sides of each vehicle used for hauling purposes in letters not less than three inches high and of a color contrasting the color of the vehicle.
7. Every vehicle used for waste transporting purposes shall be equipped with a leak-proof tank or body and shall be maintained in a clean and sanitary condition. All pumps, hoses, and vehicle tanks or bodies shall be maintained so as to prevent leakage. Provisions shall be made to discharge all liquid waste through a leak-proof hose from the tank compartment of the vehicle.
8. All waste transporting truck pumping and discharge hoses shall be fitted with automatic shut-off valves at the tank compartment of the vehicle(s).
9. All vehicles used for transport shall be operated and maintained so as to be in compliance with all state and federal regulations and not present a hazard to human health or the environment through unsafe vehicle conditions. The permittee is responsible for the operation and maintenance of all vehicles operated under this permit.
10. All transporters shall at all times maintain commercial automobile liability insurance with a combined single limit of at least One Hundred Thousand Dollars (\$100,000). Permittee shall maintain a current copy of a Certificate of Insurance demonstrating compliance with this requirement on file with the Department.
11. All transporters shall maintain a current copy of their plan for the prevention, control, and cleanup of accidental discharges on file with the Department.
12. Any spill greater than 25 gallons shall be reported to the Department in writing within five days of the incident and shall include the date, time, location, and measures taken to contain and clean spill.
13. All transporters of sludge shall adhere to the following conditions:
  - a. Liquid sludge (less than 15 percent solids) shall be transported in watertight vessels such as tank trucks or other vessels which can provide equivalent protection against spills and leakage.
  - b. Sludge cake (15 - 35 percent solids) shall be transported in watertight boxes, such as dump trucks, properly sealed to prevent leaks, or cement type vehicles. When sludge cake is transported in dump trucks the following standards shall be met:
    - i) The trucks shall be equipped with splash guards firmly attached horizontally at the front and rear of the trailer;
    - ii) Each splash guard shall cover at least 25 percent of the trailer's open area; and
    - iii) A minimum two feet of freeboard shall be maintained between the sludge and the top of the trailer unless the top of the trailer is completely sealed.

- c. Dried sludge (greater than 35 percent solids) may be transported in open boxes, such as dump trucks, which are properly sealed to prevent leakage. The trucks shall be covered with tarps or the equivalent.
14. All individuals who will be responsible for the removal of the solid and liquid contents of septic tanks, cesspools, seepage pits, holding tanks or any other individual residential on-site wastewater treatment and disposal system shall maintain a Class F License. While performing any Class F License related work, the Class F Licensee shall keep a copy of their Class F License identification card available for verification.
  15. All transporters of septage shall pump on-site systems according to the Department's Class F Licensees' Policies and Guidelines for Pumping On-Site Wastewater Treatment and Disposal Systems adopted May 15, 2002 and revised April 11, 2005.
  16. The only repairs a Class F Licensee is authorized to perform are the following: repair, add or replace septic tank and/or holding tank risers, baffles, lids, distribution box lids and effluent filters. No other repairs are authorized to be performed except by a Class E Licensed System Contractor who must first obtain a Repair Permit from the Department.
  17. All transporters are prohibited from pumping out grease traps without first entering into a Grease Trap Maintenance Contract with the property owner. A copy of the contract document must be submitted to the Department within 15 days of signing the contract. Permittee may not enter into a Grease Trap Maintenance Contract unless the permittee has an approved facility to dispose of grease trap waste identified in this permit. Co-mingling of septage and grease trap waste is prohibited, unless specifically approved, in writing, by the facility(ies) that will be receiving the grease trap waste. If a "Grease Trap Maintenance Contract" is voided by either party, the permittee shall notify the Department in writing within 30 days.
  18. Class F Liquid Waste Transporters are prohibited from pumping out holding tanks without first entering into a Sewage Holding Tank Maintenance Contract with the property owner. A copy of the contract document must be submitted to the Department within 15 days of signing the contract. If a Sewage Holding Tank Maintenance Contract is voided by either party, the permittee shall notify the Department in writing within 30 days.
  19. The permittee shall maintain a bond, or other security in a form approved by the Department, in the amount of Five Thousand Dollars (\$5,000) on file with the Department. The bond shall be payable to the Department and the obligation of the bond shall be conditioned upon the fulfillment of all requirements related to the permit.
  20. No waste petroleum or non-domestic waste products may be collected or discharged by any waste transporter unless in accordance with a specific permit for these types of wastes. Transportation of liquid wastes containing any petroleum products will require a permit from the Division of Air and Waste Management (302-739-9400).
  21. This permit does not relieve the transporter of complying with any other applicable Federal, State or local regulations.
  22. In the event that regulations or guidelines governing the activity authorized herein are revised, this permit may be reopened and modified after notice and opportunity for a public hearing. At that time, additional limitations, requirements, and/or special conditions may be included in the permit.
  23. This permit may be suspended or revoked for violation of any of these permit conditions, Department regulations, orders of the Secretary, provisions of the Environmental Protection Act of 1973 (7 Del. C., Chapter 60), or failure to pay applicable Department fees.

24. A renewal application must be submitted to the Department at least 30 days prior to the expiration of this permit to ensure renewal prior to expiration.

Signed,

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Ronald E. Graeber  
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