

2011 emails

Mackil, Molly J. (DNREC)

From: Davis Glenn F. (DNREC)
Sent: Thursday, September 08, 2011 11:00 AM
To: Underwood Robert (DNREC); Defriece John R. (DNREC); Janiga Paul J. (DNREC)
Subject: RE: Allen's Family Foods/Harim

We have had some ongoing concerns with Outfalls 002 & 003 that convey storm water. Both outfalls have sumps and pumps to pump the storm water to the WWTP. Problems evolve during heavy rain events and they cannot confirm that all storm water was pumped back to the WWTP and that no storm water left the site. These two outfalls get most of their storm water runoff from the live hold area, and the runoff can be extremely high in BOD and nutrients. The area around the live hold area is not blacktopped and is stone/crush run. We have been trying to get this area and the storm water concerns fixed for several years, with minimal success. Recently, they did have a confirmed discharge from 003 (?) but were unable (due to safety problems) to get a sample. This is another item on my "hit list" to get some resolution.

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Thank you

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

Phone: 302-739-9946
Fax: 302-739-8369
glenn.davis@state.de.us

From: Underwood Robert (DNREC)
Sent: Thursday, September 08, 2011 10:33 AM
To: Davis Glenn F. (DNREC); Defriece John R. (DNREC); Janiga Paul J. (DNREC)
Subject: FW: Allen's Family Foods/Harim

Thoughts? I'd like to get a reply back to Jen and Dave as soon as possible but would like to ensure I include your comments/concerns.

Rob

From: Bothell Jennifer M. (DNREC)
Sent: Thursday, September 08, 2011 9:00 AM
To: Marker Nancy C. (DNREC); Underwood Robert (DNREC); Foster Paul (DNREC); Rutherford Jamie H. (DNREC); Faedtke James (DNREC)

Cc: Crofts Marjorie A. (DNREC); Mirzakhali Ali (DNREC); Stiller Kathleen M. (DNREC); Piorko Frank M. (DNREC); Emory Patrick J. (DNREC)

Subject: Allen's Family Foods/Harim

Good morning everyone...Dave Small has asked that I check with your programs regarding any current or potential compliance concerns with Allen's Family Foods/Harim facilities. He also asked if any programs would have concerns if the facilities were to expand operations and if the permit transfer processes are going smoothly.

Dave is meeting with the company on Monday evening, so please have any concerns/issues/comments back to me by noon on Monday. Thank you! Jenny.

Jennifer M. Bothell
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Phone: (302) 739-9037 or (302) 739-9000
Fax: (302) 739-6242
jennifer.bothell@state.de.us

Mackil, Molly J. (DNREC)

From: Davis Glenn F. (DNREC)
Sent: Thursday, September 08, 2011 6:06 PM
To: Janiga Paul J. (DNREC); Underwood Robert (DNREC); Defriece John R. (DNREC)
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You would be absolutely correct on that thought . . . I have busted their chops on this problem of some time now. I require them to check the outfalls during any rain event and to document the inspection . . . and note any discharge of storm water . . . I'll be anxious to see how well they are keeping up with that during my surprise visit in the next few days.....thanks Paul . . . you are on target as usual.....Glenn

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From: Janiga Paul J. (DNREC)
Sent: Thursday, September 08, 2011 5:37 PM
To: Davis Glenn F. (DNREC); Underwood Robert (DNREC); Defriece John R. (DNREC)
Subject: RE: Allen's Family Foods/Harim

This is obviously something that we will have to address in the next permit.

According to the company's DMRs, the recent storm event referenced in Glenn's email (where there was an observed discharge through 003) is the only time in the last 20 months that there was a discharge of storm water from either 002 or 003. (I only looked at DMRs from 2010 and 2011.) Whether that is actually true is unknown. I find it hard to believe that every drop of rainfall is diverted to the wastewater treatment plant. I suspect wet weather discharges from 002 and 003 have occurred, but went undetected.

Paul

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Sent: Thursday, September 08, 2011 11:46 AM
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Subject: RE: Allen's Family Foods/Harim

Rob,

There is a TMDL in the Broadkill and federal regs. re. live holding area run-off. Both will affect allowable limits in the re-issued permits.

Below, pasted in the existing 001 limits (the permit is on F: drive, [F:\SURFACE WATER\PERMITS\NPDES\ALLEN FAMILY FOODS DE0000299](#)), the TMDL text, and Live Holding area discussion in the Mountaire Selbyville permit (also had live holding issues).

Existing Allens permit only talks about “first flush” holding area run-off (002 and 003?). I am not sure if 002 & 003 loads come out of the total Allens TMDL allocations, or if they come under the 40-75% reductions required by TMDL for “non-point sources”. My first guess is that they count as “point sources”. I have probably talked about that with Hassan Mirsajadi re. some other permit, but I forget how it turned out.

John

Current Allens Outfall 001 Limits

Parameter	Effluent Limitations						Monitoring Re	
	Load			Concentration			Measurement Frequency	
	Daily Average	Daily Maximum	Units	Daily Average	Daily Maximum	Units		
Flow3	1.25		MGD	--			Continuous	
pH	The pH shall be between 6.0 S.U. and 9.0 S.U. at all times.					S.U.		
Total Residual Chlorine	--	--	--		ND4	--	mg/L	Once per day
BOD5	114.0	227.0	lbs/day	16.0	23.0	--	mg/L	Once per week
Total Suspended Solids	152.0	228.0	lbs/day	20.0	23.0	--	mg/L	
Oil & Grease	68.0	99.0	lbs/day	8.0	14.0	--	mg/L	
Total Phosphorus (as P)	15.0	23.0	lbs/day		3.0	--	mg/L	
Ammonia (as N) Summer (Apr-Oct)	20.5	32.0	lbs/day	4.0	4.0	--	mg/L	
Ammonia (as N) Winter (Nov-Mar)	35	70.0	lbs/day	4.0	8.0	--	mg/L	

Total Nitrogen (as N)	467.0	574.0	lbs/day	46.0	55.3	--	mg/L	
Enterococcus6	--	--	lbs/day	33.0	--	--	col/100m L	
Biomonitoring								One time7
The discharge shall be free from floating solids, sludge deposits, debris, oil and scum.								

Broadkill TMDL

<http://regulations.delaware.gov/AdminCode/title7/7000/7400/7418.shtml#TopOfPage>

2.0 Total Maximum Daily Loads (TMDLs) Regulation for Broadkill River

Article 1. The **total nitrogen load** from the four point source facilities in the Broadkill River watershed (Town of Milton, Allen Family Foods, Perdue Georgetown, and SAW Georgetown) shall be limited to 245.6 pounds per day. The nitrogen waste load allocation for each facility includes: 36.5 pounds per day for the Town of Milton, **73.0 pounds per day for Allen Family Foods**, 116.8 pounds per day for Perdue Georgetown, and 19.3 pounds per day for SAW Georgetown.

Article 2. The **total phosphorous load** from the four point source facilities in the watershed (Town of Milton, Allen Family Foods, Perdue Georgetown, and SAW Georgetown) shall be limited to 28.0 pounds per day. The phosphorous waste load allocation for each facility includes: 13.1 pounds per day for the Town of Milton, **5.21 pounds per day for Allen Family Foods**, 8.34 pounds per day for Perdue Georgetown, and 1.38 pounds per day for SAW Georgetown.

Article 3. The **enterococcus bacteria load** from the four point source facilities in the watershed (Town of Milton, Allen Family Foods, Perdue Georgetown, and SAW Georgetown) shall be limited to 1.67E+09 colony forming units (CFU) per day. The *enterococcus* bacteria waste load allocation for each facility includes: 4.37E+08 CFU per day for the Town of Milton, **4.73E+09 CFU per day for Allen Family Foods**, 7.57E+09 CFU per day for Perdue Georgetown, and 1.25E+09 CFU per day for SAW Georgetown.

Article 4. The **nonpoint source nitrogen load** in the entire Broadkill River watershed **shall be reduced by 40 percent** from the 2002-2003 baseline level. This shall result in a yearly-average total nitrogen load of 2224.2 pounds per day.

Article 5. The **nonpoint source phosphorous load** in the entire Broadkill River watershed shall be **reduced by 40 percent** from the 2002-2003 baseline level. This shall result in a yearly-average total phosphorus load of 94.7 pounds per day.

Article 6. The **nonpoint source enterococcus bacteria** load in the entire Broadkill River watershed shall be **reduced by 75 percent** from the 2002-2003 baseline level. This shall result in a yearly-average *enterococcus* bacteria load of 1.0E+11 CFU per day.

Article 7. Based upon water quality model runs and assuming implementation of reductions identified by Article 1 through Article 6 above, DNREC has determined that, with an adequate margin of safety, water quality standards will be met in the Broadkill River.

Article 8. Implementation of this TMDLs Regulation shall be achieved through the development and implementation of a Pollution Control Strategy. The Strategy will be developed by DNREC in concert with the Tributary Action Teams, other stakeholders, and the public.

Regulations for Live Holding Area Run-off

Outfall 002

Monitoring requirements and limits have been added for Outfall 002. The requirements are based on:

- 40 CFR §432, Federal “Effluent Limitations Guidelines” (ELGs) for the “Meat And Poultry Products Point Source Category, Subpart K – Poultry First Processing”:

Regulated parameter	Maximum daily¹	Maximum monthly avg.¹
Ammonia (as N)	8.0	4.0
BOD ₅	26	16
Fecal Coliform *	(²)	(³)
O&G (as HEM)	14	8.0
TSS	30	20
Total Nitrogen	147	103
Notes: ¹ mg/L (ppm). ² Maximum of 400 MPN or CFU per 100 mL at any time. ³ No maximum monthly average limitation. * Instead of “fecal coliform”, the limit is based on the more stringent <u>DeSWQS</u> (page 20, §4.6.1.1) requirements for enterococcus for “primary contact recreation fresh waters”.		

- State of Delaware “Regulations Governing the Control of Water Pollution” (RGCWP):
 - Section 9.1, “Regulations Governing Storm Water Discharges Associated with Industrial Activity”.
 - Section 3.2, “Prohibitions” of discharge of any pollutant from a point source into the surface or ground water.

This permit was last re-issued on 5/20/2004. The final Poultry ELG promulgation in the Federal Register, 69 FR 54541, was on 9/8/2004. Federal ELG’s under 40CFR 432 apply to process wastewater from poultry processing wastewater. Most of MountAire’s “process wastewater” goes to the Town of Selbyville WWTF for treatment, and is then pumped into a combined discharge with the South Coastal Regional WWTF, via their ocean diffuser. However, several sections of the 9/8/2004 §432 ELG’s specifically define any water (eg., stormwater run-off, wash-down water, etc.) from “animal holding areas” as “process wastewater”. Water from this area currently discharges via Outfall 002 to a swale.

Further, the promulgation of the Federal Regulations under 40CFR §432, “Subpart K – Poultry First Processing” requires and provides, in relevant part:

"New and reissued NPDES permits to direct dischargers must include these effluent limitations, and the permits must require immediate compliance with such limitations. If the permitting authority wishes to provide a compliance schedule, it must do so through an enforcement mechanism."^[1]

Some reasonable time allowance will be needed for the facility to design and construct the improvements that will be necessary to meet the new limits for Outfall 002. Consequently, the re-issued permit will show limits that are effective as of the permit effective date, but the permit will have a companion "Notice of Conciliation and Secretary's Order" that allows up to three years for the permittee to achieve compliance with those limits.

John R. DeFriece, P.E.
Program Manager I
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^[1] May 8, 2004 Federal Register, Volume 69, page 54536, Part XII.A.1. See <http://www.gpo.gov/fdsys/pkg/FR-2004-09-08/pdf/04-12017.pdf>.

Mackil, Molly J. (DNREC)

From: Defriece John R. (DNREC)
Sent: Tuesday, August 30, 2011 3:02 PM
To: 'Lou Ann Parson'
Subject: RE: Need specific date AI-130-18
Attachments: Allen.Permit_Final.20110825.pdf

Lou Ann,

I think we are good to go. The attachment shows the changes needed in the permit (only affects page 1).

Please double-check me. I will forward it for signature if it passes check, and I hear back from you.

Thanks,

John

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From: Lou Ann Parson [<mailto:laparson@bpenvironmental.net>]
Sent: Tuesday, August 30, 2011 2:30 PM
To: Defriece John R. (DNREC)
Subject: RE: Need specific date AI-130-18

Mr. DeFriece,

Hope all is well after Irene,

This is a follow up to our conversation concerning the transfer of the Allen's Harbeson- NPDES permit to Allen Harim Foods, LLC.

The transfer date is September 6, 2011.

Contact person will be Tom Miller, VP 302-629-9163.

Please feel free to contact me if you have any questions.

Thank you again.

LA

We moved! Our new address and phone number is :

Lou Ann Parson, President

BP Environmental, Inc.

8615 Commerce Drive, Unit One

Easton, MD 21601

P: 410.819.0919

F: 410.819.6555

From: Defriece John R. (DNREC) [<mailto:John.DeFriece@state.de.us>]

Sent: Thursday, August 25, 2011 2:13 PM

To: 'LAParson@BPEnvironmental.net'

Cc: Gary Lasako (gklasako@bpenvironmental.net)

Subject: Need specific date

Ms. Parson,

Permit pg. 22.

- b. In the event of a change in ownership or control of the facilities from which the authorized discharge(s) emanate(s), this permit may be transferred if the permittee:
 - 1) Notifies the Department, in writing, of the proposed transfer, in advance; and
 - 2) Submits to the Department a written agreement signed by all parties to the transfer, containing a specific date for transfer of permit responsibility, coverage and liability to the new permittee. The written agreement shall expressly acknowledge the current permittee is responsible and liable for compliance with the terms and conditions of this permit up to the date of transfer and the new permittee is responsible and liable for compliance from that date on; and
 - 3) The Department within thirty (30) days of receipt of the notification of the proposed transfer does not notify the current permittee and the new permittee of its intent to modify, to revoke and reissue or to terminate this permit and require that a new application be submitted.

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To: Defriece John R. (DNREC)
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John,

As soon as we hung up.... I got approval,

The change on the permit is correct

Thank you in advance for your prompt attention to this transfer.

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Sent: Thursday, September 08, 2011 9:00 AM
To: Marker Nancy C. (DNREC); Underwood Robert (DNREC); Foster Paul (DNREC); Rutherford Jamie H. (DNREC); Faedtke James (DNREC)
Cc: Crofts Marjorie A. (DNREC); Mirzakhali Ali (DNREC); Stiller Kathleen M. (DNREC); Piorko Frank M. (DNREC); Emory Patrick J. (DNREC)
Subject: Allen's Family Foods/Harim

Good morning everyone...Dave Small has asked that I check with your programs regarding any current or potential compliance concerns with Allen's Family Foods/Harim facilities. He also asked if any programs would have concerns if the facilities were to expand operations and if the permit transfer processes are going smoothly.

Dave is meeting with the company on Monday evening, so please have any concerns/issues/comments back to me by noon on Monday. Thank you! Jenny.

Jennifer M. Bothell
Enforcement Coordinator
Office of the Secretary
Delaware Department of Natural Resources
and Environmental Control
89 Kings Highway
Dover, DE 19901
Phone: (302) 739-9037 or (302) 739-9000
Fax: (302) 739-6242
jennifer.bothell@state.de.us

Mackil, Molly J. (DNREC)

From: Underwood Robert (DNREC)
Sent: Thursday, July 21, 2011 10:58 AM
To: Davis Glenn F. (DNREC); Defriece John R. (DNREC)
Cc: Wirick Katherine R. (DNREC)
Subject: FW: Allen Family Foods - Bankruptcy Notice
Attachments: AllenFamilyFoods_7_2011.pdf

FYI

From: Schneider John W. (DNREC)
Sent: Thursday, July 21, 2011 10:28 AM
To: Underwood Robert (DNREC)
Subject: FW: Allen Family Foods - Bankruptcy Notice

Rob—Do they have an NPDES permit? John

From: Parker Tracey W. (DNREC)
Sent: Thursday, July 21, 2011 6:40 AM
To: Baldwin Robert S. (DNREC); Barthelmeh Thomas G. (DNREC); Brower Daniel J. (DNREC); Cahall Brooks P. (DNREC); Enright Robert (DNREC); Gmuer Cheryl L. (DNREC); Grabowski Matthew T. (DNREC); Jones Lyle A. (DNREC); Leahy Brian M. (DNREC); Palmer Robert R. (DNREC); Piorko Frank M. (DNREC); Powell Michael S. (DNREC); Pratt Tony P. (DNREC); Rutherford Jamie H. (DNREC); Schneider John W. (DNREC); Smith Bradford L. (DNREC); Williams Charles E. (DNREC); Williams Stephen N. (DNREC)
Subject: FW: Allen Family Foods - Bankruptcy Notice

Please see Jenny's email below re: Allen Family Foods and respond accordingly.

Thanks.

Tracey W. Parker
Support Services Administrator
DNREC, Financial Services
(302) 739-9145, 739-9940 or 739-9921
Fax (302) 739-6724

From: Zink Rebecca A. (DNREC)
Sent: Wednesday, July 20, 2011 5:22 PM
To: Baxter Carol (DNREC); Cassell-Carter Carla M. (DNREC); Parker Tracey W. (DNREC); Leahy Brian M. (DNREC); Michalek Susan M. (DNREC)
Cc: Bachavala Ashwini S. (DNREC); Hurley Wanda S. (DNREC); Bothell Jennifer M. (DNREC)
Subject: FW: Allen Family Foods - Bankruptcy Notice

FYI~ please be advised of the Bankruptcy Notice below. Let Jenny know if you have anything outstanding to Jenny within the 10 day period.

Thanks
Becca

Rebecca A. Zink
Fiscal Administrative Officer
Financial Services, DNREC
Phone: 302.739.9903
Fax: 302.739.7014

From: Bothell Jennifer M. (DNREC)
Sent: Wednesday, July 20, 2011 1:24 PM
To: Zink Rebecca A. (DNREC); Vennard Christine (DNREC)
Subject: Allen Family Foods - Bankruptcy Notice

Hi Becca and Chris...We've received a notice of Bankruptcy for Allen Family Foods (attached, pdf), which is filing for a reorganization plan under Chapter 11. As this is a facility that may have multiple programs affected, I am forwarding this notice to you both for distribution to all Divisions/Programs fiscal offices so that we get a full picture of what permit fees, loans, grants, etc., may be owed to DNREC.

Please have those sections send a reply to me in 10 days if there are any outstanding fees/grants/loans, etc. owed, and I can coordinate the listing to send to Legal so that we have a DAG assigned to file a proof of claim if needed. There is not a date set yet for filing proof of claims, but wanted to get an idea how many claims there might be throughout the Department and get a legal request completed sooner than later, so we have an attorney assigned.

Off the top of my head, I am aware of Allen's having an Air permit and probably a NPDES permit as well. Thanks! Jenny.

Jennifer M. Bothell
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and Environmental Control
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